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Apahideanu, Ionuț

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Unicameralism *versus* Bicameralism Revisited

The Case of Romania

IONUȚ APAHIDEANU

INTRODUCTION

A recurrent public debate topic in Romania, especially since the November 22, 2009 referendum, the uni- vs. bi-cameral antinomy represents not a mere technicality, but an integral part of a broader and consequential question rooted in political philosophy, a quest(ion) of how to design the state institutional architecture best suited to foster democracy, security, and prosperity. Hence not at all coincidentally, in the overwhelming majority of cases worldwide, the one- or two-Chamber structure of the legislature is codified constitutionally¹, unlike other issues, considered of secondary importance and subsequently regulated by law, such as number of legislators, Parliament headquarters, or organization and procedures of the legislature's committees.

Of additional importance for countries in transition, such as Romania, in an extensively shared acknowledgment "that an effective and representative legislature is critical to the long-term success of any democratization process"², how many Chambers a "good" Parliament should have remains even today³ an extremely controversial issue in constitutional law and political science as well, as each of them – the unicameral model, and the bicameral one – presents even

¹ Examples: Poland – art. 95(1): "Legislative power in the Republic of Poland shall be exercised by the Sejm and the Senate"; Belgium – art. 36: "The federal legislative power is exercised jointly by the King, the House of Representatives and the Senate"; France – art. 24(2): "It [the Parliament] comprises the National Assembly and the Senate"; Brazil – art. 44: "The legislative power is exercised by the National Congress, which is composed of the Chamber of Deputies and the Federal Senate"; Romania – art. 61 (2): "Parliament consists of the Chamber of Deputies and the Senate"; Sweden – chapter III, art. 1: "The Riksdag consists of a single chamber".

² James KETTERER, "From One Chamber to Two: The Case of Morocco", *Journal of Legislative Studies*, vol. 7, no. 1, 2001, p. 135.

³ A subject of discussion already in the mid-19th century; see for instance John Stuart Mill quoted in Samuel C. PATTERSON, Anthony MUGHAN, "Senates and the Theory of Bicameralism", in IDEM, (eds.), *Senates: Bicameralism in the Contemporary World*, Ohio State University Press, Columbus, OH, 1999, p. 1.

generically and theoretically, let alone in specific local realities, both strengths and weaknesses, both advantages and disadvantages. Furthermore, it often happens that each debating side argues the superiority of its preferred model by the very same criteria employed by the other side, from for instance adequate representation⁴, to enhanced quality of the law-making process⁵, or how to best cope with the executive and bureaucratic dominance and subsequent pressure exerted on Legislatures in the age of globalization.

Moreover, and not confined to Romania, the public (and sometimes even the academic) debate seems regrettably often biased by partisan positioning and abundant logical fallacies. To randomly begin with, much of the criticism directed *prima facie* against bicameralism in its entirety seems, at a closer look, rather a reproach against one aspect of one particular type of bicameralism, the latter's current variety worldwide being highly spectacular, as I will detail below. For instance, one of the most favoured arguments, *i.e.* unicameralism being clearly less expensive and as such preferable to the *doubling* of resources (*e.g.*, money, time, energy, human resources) absorbed by bicameralism refers actually, partially recognizable already in the previously underlined word, to the – as I shall conceptually clarify below – congruent subtype of a two-Chamber Parliament and not to the bicameral generic model *in toto*. The same applies, although in a different direction, to Benjamin Franklin's widely quoted, despite (or exactly because of) its obvious logical fallacy, formulation that a "legislative body divided into two branches is like a carriage drawn by one horse in front and one behind pulling in opposite direction".

Furthermore, some of the arguments promoting unicameralism are not so much in favour of unicameralism as rather critically directed against (and usually one particular subtype of) bicameralism and vice-versa, as visible for instance in the already negative construction of the argument that unicameralism bears *no* duplication, *no* divided accountability, and/or *no* redundancies, unlike, obviously, bicameralism.

This does not mean that methodological debate flaws would be confined within the unicameralists' camp. Its opposite side perpetrates equally easy recognizable logical fallacies, ranging, for instance: from a combination of

⁴ See for instance M. Cotta, who, attempting to elaborate a structural-functional framework for Parliaments' comparison, concluded four decades ago that in terms of representation, a second Chamber may provide the possibility of a greater diversity of parliamentary personnel and a more accurate representation, while nevertheless being criticizable as a deviation from the ideal model of representation, and simultaneously generating possible debates with regards to the representational weight assigned to the legislature's different components (Maurizio COTTA, "A Structural-Functional Framework for the Analysis of Unicameral and Bicameral Parliaments", *European Journal of Political Research*, vol. 2, no. 3, 1974, pp. 219-221).

⁵ With unicameralists appraising a presupposed superior fluency and celerity of law adoption, versus bicameralists emphasizing the quality assurance role exerted by a second Chamber.

argumentum ad baculum and “slippery slope” with an odour of anecdotal evidence in rhetorical interrogations like “why not directly reduce everything to a 10-seat unicameral Parliament, so we don’t have to worry anymore about costs?” to the *dicto simpliciter* type, as for example the repeatedly emphasized correlation between population size and the type of Parliament structure⁶, conveniently omitting not only the world’s largest state China, but also Indonesia, or, in Europe, countries like Ukraine or Turkey, all with unicameral Parliaments, despite their considerable population size⁷; or, from a blurring of the delineations between fundamental types of arguments⁸, when for instance arguing in a rather prescriptive manner the empirically undisputable strong covariance of a federal type of state structure and a bicameral Parliament structure⁹, to a pervasive form of *argumentum ad naturam*, in the analogy that two eyes, read parliamentary Chambers, see better than a single one.

As for Romania in particular, the substance and quality of the debate have been further deteriorated over the recent years by the interaction of two, causally related, aggravating factors: on the one hand the constantly and severely low public confidence in the Parliament institution, in comparison to both other national institutions and the European average; on the other hand, the intense political exploitation of the topic, denounced as such especially by opponents of the Constitutional revision project towards a shrunk unicameral Parliament¹⁰, although one objective observer might easily argue the same about both sides involved.

⁶ See for instance Dan Pavel, who claims unicameral legislatures would be “typical to small states” and former Communist countries (“Puterea legislativă – punctul slab al democrației consensuale”, *Sfera Politicii*, vol. 17, no. 140, 2009, p. 15).

⁷ Or, in the opposite direction, conveniently neglecting the empirical fact that second Chambers are to be nowadays also found in “dwarf” states such as Grenada (109.590 inhabitants in 2013), American Samoa (54.719), Antigua and Barbuda (90.156), Bermuda (69.467), Saint Lucia (162.781), or Palau (21.108).

⁸ *I.e.* factual-descriptive, causal-explicative, evaluative-normative, and strategic-prescriptive.

⁹ Notice for instance the difference between these two assertions: (a.) “We mention the fact that in federal states, bicameralism is *mandatory*” [italics in the original] (Claudia GILIA, “Reformarea sistemului constituțional românesc – o prioritate?”, *Studii de drept românesc*, vol. 54, no. 2, 2009, p. 163) vs. (b.) “Unitary nations tend to establish unicameral parliaments, while federal nations tend to create bicameral assemblies” (Samuel C. PATTERSON, Anthony MUGHAN (eds.), *Senates...* cit., p. 10). Similarly to the latter approach, Bogdan Dima acknowledges the statistically striking covariance between state- and Parliament-structure, but rejects its relevance, as a country’s option for a uni- or bi-cameral model is one that envisages, or should ultimately envisage, the effectiveness of the legislative act (Bogdan DIMA, “Parlament bicameral *versus* parlament unicameral”, *Sfera Politicii*, vol. 17, no. 140, 2009, pp. 18-36).

¹⁰ Who accused president Băsescu of populism, following the latter’s initiation of the 2009 referendum regarding the restructuring of Romania’s Parliament into a unicameral one, of maximum 300 seats.

In this context, my paper essentially aims at critically revisiting the classic uni- vs. bi-cameralism debate in order to elaborate an operational synthesis of arguments and counterarguments applicable to the case of contemporary Romania. Subsidiary to this goal and confined geographically mostly to Europe, the research starts by addressing the quasi-unanimous interpretation of Parliament structure as largely the resultant of historical experiences, which condition the option for either uni- or bi-cameralism both objectively and subjectively (in the form of historically-modelled public perceptions of one particular type of Parliament structure), and respectively not only directly, but also mediated by other intermediary variables, such as a certain shared definition of the nation (*e.g.* “ethnic” or “civic”) and of the (nation-)state, the configuration of social stratification, the degree of ethnic diversity etc.¹¹

Secondly, in order to precondition the rigorousness of the debate, I will employ a sum of concepts and methodological instruments meant to facilitate the differentiation of multiple (sub) types of bicameralism occurring in reality, motivated on this enterprise by one scholar’s critical observation that “recent theoretical expositions of the benefits of bicameralism are based on implicit assumptions that second chambers [all] have... three attributes”¹² “symmetry; congruence; an adequately perceived legitimacy. Accordingly, the next part of my study addresses the actual ‘uni- vs. bi-’ debate in a structure-process format, specifying each time to what particular form of bicameralism one perceived strength or weakness actually refers, absolutely, or relatively to unicameralism, and simultaneously distinguishing between actual arguments in favour of one particular model, by contrast to what would rather be qualified as criticism of the opposite model.

Finally, the last part covers Romania roughly along the same analysis units, starting with the identifiable historical factors of the current parliamentary configuration, continuing with an exploration of its advantages and shortcomings in light of the previous conceptual clarifications, and ending with an evaluation of the main arguments’ applicability to it.

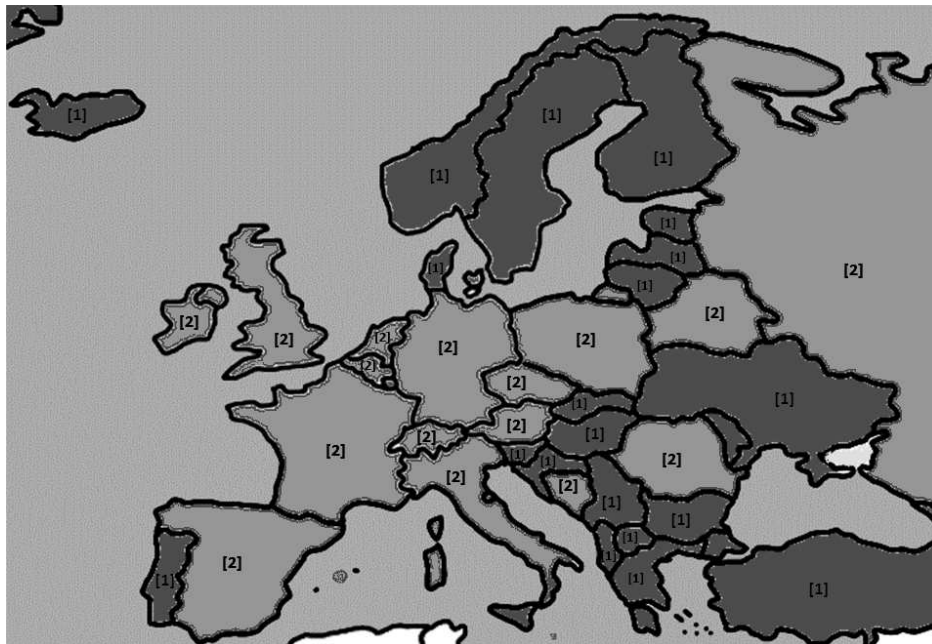
EMPIRICAL APPROACH (CIRCUMSTANTIAL GEOGRAPHICAL AND HISTORICAL ARGUMENTS)

Starting from the aforementioned essentially undisputed view among field scholars, *i.e.* that the uni- or bi-cameral structure of today’s Parliaments is conditioned to a significant degree by each country’s historical background,

¹¹ See, among multiple studies on such issues, George TSEBELIS, Jeanette MONEY, *Bicameralism*, Cambridge University Press, New York, 1997.

¹² Meg RUSSELL, “What Are Second Chambers For?”, *Parliamentary Affairs*, vol. 54, no. 3, 2001, p. 456.

which influences it both directly and indirectly, the map below highlights a reasonably juxtaposed model of unicameral, respectively bicameral dominance, with the first model seemingly preferred in the North and also in Europe's mostly former Communist South-Eastern periphery, where Romania's current two-Chamber model stands out as an exception.



Map 1. Europe by Structure of National Parliaments, 2014.

Legend: [1] = unicameral; [2] = bicameral

Corroborating geography and history allows a reinterpretation of the above map in terms of five juxtaposed clusters of states. In the West, bicameralism represents the preferred option in: (a) old states (usually former empires) emerged out of the feudal order of the Middle Ages (United Kingdom, France, Spain, and Portugal as an exception), where bicameralism, associated to federal/regional state structures, was meant not only to facilitate parliamentary representation of the commoners in order to diffuse social tensions and prevent the undermining of public trust in the state, without, however, endangering the aristocracy's interests¹³, but also to accommodate the pre-existing diversity and

¹³ The latter benefiting from a dominant position in the upper Chamber, where aristocrats could exert a veto on policies voted in the lower Chamber (George TSEBELIS, Jeanette MONEY, *Bicameralism*, cit., p. 32; Michael CUTRONE, Nolan McCARTY, "Does Bicameralism Matter?", in Barry R. WEINGAST, Donald A. WITTMAN (eds.), *The Oxford Journal of Political Economy*, Oxford University Press, Oxford, 2006, pp. 357-372).

dynamically balance the interests of the former previous states and communities; in broad terms, these legislatures represent vestiges of the past; and in (b) states emerged or unified more recently, during the 19th century (Germany, Italy, where, in E. Gellner's terms, a high culture and an idea of a nation preceded the state, respectively Belgium, Switzerland, and even Ireland, where bicameralism was perceived as a reasonable and viable compromise between the multiple historically evolved local/regional identities and the newer state-construction).

Comparatively, unicameralism characterizes: (c) the Scandinavian cluster, where Denmark and Sweden have abandoned their initial two-Chamber formats (in 1953 and 1969-1970), a transition also adopted by Iceland (1991), thus joining the early 20th century emerged independent states Norway and Finland (plus the self-administered territories of Greenland and the Faroe Islands); (d) the relatively clear-cut cluster of the European microstates (Andorra, Monaco, San Marino, Luxembourg, Liechtenstein), relics of a distant path, most of them monarchic; (e) Central and Eastern Europe, where (with the exception of Poland, and, as successors to former empires, Russia and Turkey), all states have, in historical terms, only recently gained their independence, most having unicameral Parliaments, albeit with the considerable, and differently explainable exceptions of: Russia and Belarus out of the former USSR; Poland and the Czech Republic in *Mitteleuropa*; respectively Bosnia and Herzegovina and Romania in the Balkans.

Significantly enough, the historical background of each country conditions its option for a certain Parliament structure not only objectively (directly or mediated by other intermediary state variables, as for instance state structure), but also subjectively, by modelling certain perceptions and preferences for one of the two models, a thesis supported by abundant case studies undertaken in the field: in Portugal for instance, a second Chamber is largely associated by public opinion with the authoritarian regime of Salazar¹⁴; in Spain, where a unicameral legislature was first introduced by the rather liberal Constitution of 1812, there is still a "conventional wisdom" that associates unicameralism with liberalism, despite the Senate having been revoked by the Republican Constitution of 1931¹⁵; in Central and Eastern Europe, the post-Communist restoration of second Chambers was largely

Antonio Marongiu explains bicameralism in relatively similar determinist terms as "rooted historically in the highly stratified societies of the Middle Ages and [reflecting] the communal spirit of the medieval world" (Antonio MARONGIU, *Medieval Parliaments: A Comparative Study*, Eyre and Spottiswoode, London, 1968, p. 54).

¹⁴ Philip NORTON, "Adding Value? The Role of Second Chambers", *Asia Pacific Law Review*, vol. 15, no. 1, 2007, p. 6.

¹⁵ Martinez SOSPEDRA quoted by Carlos Flores JUBERIAS, "A House in Search of a Role: The Senate of Spain", in Samuel C. PATTERSON, Anthony MUGHAN (eds.), *Senates...* cit., p. 261.

tributary to the “resurgence of liberal ideas”¹⁶, while in the particular case of Romania, as it has been frequently argued, the 1990 reestablishment of bicameralism was meant not only as a return to tradition, but also as a specific means to antagonistically differentiate the new Parliament from the former unicameral Communist one.

Global Trends

Zooming out of the European to the global level and focusing, for reasons of time and space available, solely on the geographical dimension, without taking any historical considerations into account, a 2013 exhaustive overview of parliamentary structures throughout the world captures an approximate average ratio of 60%-40% between uni- and bi-cameral national legislatures.

By area, except for the Pacific-Area conglomerate, unicameralism seems the most favoured system in – somehow counter-intuitively – Europe (in 68% of its independent states, although the ratio is more balanced within the EU), while bicameralism ranks as the preferred option only in the aggregate Americas area (chosen by 56.4% of its independent countries).

In terms of trends, an examination of the scholarly literature in the field *prima facie* suggests an ascending trend of the unicameral model: whereas in 1980 David M. Olson was ascertaining that “the countries worldwide divide almost equally between those with unicameral legislatures and those with bicameral, or two-Chamber, Parliaments”¹⁷, roughly three decades later, the Quebecker political scientist Louis Massicotte firmly concluded that “bicameral legislatures are vastly outnumbered by unicameral ones”¹⁸, emphasising nevertheless: “There is no clear trend either toward or away from bicameralism”.

¹⁶ Bernard CHANTEBOUT *apud* Cynthia CURT, “Modele bicamerale comparate. România: monocameralism versus bicameralism”, *Transylvanian Review of Administrative Sciences*, vol. 19, no. 1, 2007, p. 22.

¹⁷ David M. OLSON, *The Legislative Process: A Comparative Perspective*, Harper & Row, New York, 1980, p. 21.

¹⁸ Louis MASSICOTTE, “Legislative Unicameralism: A Global Survey and a Few Case Studies”, *The Journal of Legislative Studies*, vol. 7, no. 1, 2001, p. 151.

World's States and Self-administered Territories by Parliament Structure, 2014 (Own Survey)

[illegible]

A more detailed diachronic approach however highlights a rather complex evolution:

Global Overview of Uni- vs. Bicameral Parliaments' Ratio Over the Last Three Decades

	1980	1992	1997	2001	2007	2009	2012*	2013a*	2013b
Bi-	50.0	35.0	33.8	35.4	39.7	40.1	40.4	40.7	41.1
Uni-	50.0	65.0	66.2	64.6	60.3	59.9	59.6	59.2	58.9

* includes Slovenia as bicameral; excludes Kosovo (Based on: for 1980-2013a on Inter-Parliamentary Figures (IPU)¹⁹; 2013b – own exhaustive survey of 202 independent states as of Febr. 15th, 2014).

¹⁹ As quoted by: David OLSON, *The Legislative Process...* cit., p. 21 – for 1980; George TSEBELIS, Bjornerick RASCH, “Patterns of Bicameralism”, in Herbert DOERING,

The figures suggest that, whereas during the '80s, unicameralism had registered an ascending trend, as for instance Lijphart²⁰ was stating, and as the corroboration of the 1980 and 1992 data would actually confirm it, over the last fifteen years the trend has been visibly reversed in favour of bicameralism, whose percentage among states worldwide has steadily increased from 33.8% in 1997 to about 40.7% at the moment of this writing. Yet, keeping in mind that such relative frequencies are influenced by the number (and identity) of the countries annually surveyed by the Inter/Parliamentary Union, and hence by for instance any new wave of emerging independent states (as was the case of Yugoslavia's and USSR's dismemberments at the beginning of the '90s)²¹ and their initial option for one legislature model or the other, a heuristically more valuable perspective would probably be facilitated by a monitoring of concrete "switches" from uni- to bicameralism or the other way around.

Thus, leaving aside distant examples such as New Zealand (1950)²², Denmark (1953)²³, or Sweden (1969-1970)²⁴ and focusing on the last two decades, I have identified only five clear cases of countries that turned from bi- to uni-cameral legislative structures: Iceland (1991)²⁵, the Central African

Parliaments and Majority Rule in Western Europe, St. Martin's, New York, 1995, p. 365 – for 1992; Samuel C. PATTERSON, Anthony MUGHAN (eds.), *Senates...* cit., p. 8 – for 1997; Louis MASSICOTTE, "Legislative Unicameralism..." cit., p. 151; Meg RUSSELL, "What Are Second Chambers..." cit., p. 442, and Andrés MALAMUD, Martín COSTANZO, "Subnational Bicameralism: The Argentine Case in Comparative Perspective" (paper delivered at the XIXth World Congress of IPSA, Durban, June 29-July 4, 2003), p. 2 – for 2001; BBC news for March 2007; Bogdan DIMA, "Parlament bicameral..." cit., p. 21 – for 2009; own monitoring of IPU website for July 2012 and May 2013a.

²⁰ Arend LIJPHART, *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries*, Yale University Press, New Haven, 1984, p. 92.

²¹ Out of the 30 independent states emerged since 1990, 13 have opted initially for a bicameral legislature (Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Uzbekistan, Bosnia and Herzegovina, Namibia, the Czech Republic, Palau, and South Sudan, plus the merger-resulted states Germany (1990) and Yemen (1990)), while the other 17 established unicameral Parliaments (Armenia, Azerbaijan, Estonia, Georgia, Latvia, Lithuania, Moldova, Russia, Ukraine, Croatia, Kosovo, Macedonia, Montenegro, Serbia, Slovakia, Slovenia (for a justification of its classification, see below), the Marshall Islands, Eritrea, Micronesia, and Timor-Leste).

²² See Keith JACKSON, "The Abolition of New Zealand Upper House Parliament", in Lawrence D. LONGLEY, David M. OLSON (eds.), *Two into One: The Politics and Processes of National Legislative Cameral Change*, Westview Press, Boulder, CO, 1991, pp. 43-76.

²³ See David ARTER, "One Thing Too Many: The Shift to Unicameralism in Denmark", in Lawrence D. LONGLEY, David M. OLSON (eds.), *Two into One...* cit., pp. 77-142.

²⁴ See Björn Von SYDOW, "Sweden's Road to a Unicameral Parliament", in Lawrence D. LONGLEY, David M. OLSON (eds.), *Two into One...* cit., pp. 143-201.

²⁵ See Edward SCHNEIER, "Iceland", in George Thomas KURIAN (ed.), *World Encyclopedia of Parliaments and Legislatures*, vol. I, (*Congressional Quarterly*), Washington, DC, 1998, p. 314.

Republic (1991-1993), Peru (1992-1993)²⁶, Venezuela (1999-2000), and Croatia (2001). By comparison, the number of states having switched to a two-Chamber legislature format has so far reached at least fourteen, thus confirming the above-identified trend at global level: Poland (1989), Bosnia and Herzegovina (1990), Haiti (1990), Russia (1990), Romania (1990), Mauritania (1992), Lesotho (1993), Kazakhstan (1995), Uzbekistan (1995), Morocco (1996), Nigeria (1999), Tajikistan (1999), Republic of Congo (2002), and Tunisia (2005), to which one might add Slovenia, where in 1992 the National Council, a rather advisory and supervisory body has been established, and Malawi, whose 1994 and 2004 Constitutions stipulate the existence of an attribution-stripped Senate. In addition, six countries have registered a switch-reversal, returning to their initial bi- or uni-cameral format: Zimbabwe switched in 1989 to a unicameral Parliament, only to reintroduce the Senate in 2005; Afghanistan has returned to a bicameral model after the overthrow of the Taliban regime; in Madagascar, the Senate (1958-1975), abolished during the Second Republic (1975-1993), was restored within the Third one (1993-present); South Africa's Senate was dissolved in 1981, reintroduced in 1994, and finally replaced by the National Council of Provinces in 1997, thus keeping the bicameral legislative structure; after gaining independence, Kyrgyzstan switched in 1991 to a bicameral legislature, only to return to a unicameral format in 2007; Nepal turned in 1990 to a bicameral Parliament, replaced in 2008 by a unicameral legislative body, which however remains suspended since 2012.

The Uni- versus Bi- Dimension in Europe in Relation to Other Variables

One of the mainstream conclusions reached by field scholars states a positive mathematical relation between on the one hand the option for bicameralism, and on the other hand the geographic and demographic dimension of the country, and, furthermore, its federal structure, while multiple authors also take into account as factors ethnic diversity, respectively EU membership, which would seem to favour the two-Chamber model²⁷.

²⁶ See William W. CULVER, "Peru", in George Thomas KURIAN, *World Encyclopedia of Parliaments...* cit., pp. 537-538.

²⁷ See, *inter alia*, the above quoted works of P. NORTON, C. CURT, A. MALAMUD and M. COSTANZO, M. RUSSELL, B. DIMA, or Arend LIJPHART, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, Yale University Press, New Haven & London, 1999.

Table 3

Uni- and Bi-cameralism in Extended Europe in Relation to Other Variables, 2013

Variable State	A	B	C	D	E	F	FRAC _E	Q _E
Albania	1	Rep.	unitary	N	parl.	3,001.40	0.0962	0.1856
Andorra	1	Princ.	unitary	N	parl.	85.3	0.6856	0.7883
Armenia	1	Rep.	unitary	N	½-pres.	2,974.20	0.0414	0.0813
Austria	2	Rep.	federal	Y	parl.	8,221.60	0.1676	0.3052
Azerbaijan	1	Rep.	unitary	N	½-pres.	9,590.20	0.1766	0.3185
Belarus	2	Rep.	unitary	N	½-pres.	9,625.90	0.2903	0.4909
Belgium	2	Mon.	federal	Y	parl.	10,444.30	0.5554	0.8735
BiH	2	Rep.	federal	N	parl.	3,875.70	0.6115	0.8958
Bulgaria	1	Rep.	unitary	Y	½-pres.	9,981.60	0.4003	0.6776
Croatia	1	Rep.	unitary	N	parl.	4,475.60	0.1917	0.3548
Cyprus	1	Rep.	unitary	Y	presid.	1,155.40	0.3722	0.6612
Czech Rep.	2	Rep.	unitary	Y	parl.	10,162.90	0.5016	0.8511
Denmark	1	Mon.	unitary	Y	parl.	5,580.50	0.191	0.3554
Estonia	1	Rep.	unitary	Y	parl.	1,266.40	0.4618	0.8045
Finland	1	Rep.	unitary	Y	½-pres.	5,266.10	0.1245	0.2423
FYROM	1	Rep.	unitary	N	parl.	2,087.20	0.5213	0.7921
France	2	Rep.	unitary	Y	½-pres.	65,951.60	0.1514	0.2794
Georgia	1	Rep.	unitary	N	½-pres.	4,555.90	0.2894	0.4864
Germany	2	Rep.	federal	Y	parl.	81,147.30	0.1585	0.3009
Greece	1	Rep.	unitary	Y	parl.	10,773.00	0.1302	0.2604
Hungary	1	Rep.	unitary	Y	parl.	9,939.50	0.1443	0.2765
Iceland	1	Rep.	unitary	N	parl.	315.3	0.1128	0.2256
Ireland	2	Rep.	unitary	Y	parl.	4,776.00	0.2298	0.4084
Italy	2	Rep.	regional	Y	parl.	61,482.30	0.0781	0.1487
Kosovo	1	Rep.	unitary	N	parl.	1,847.70	0.1472	0.2944
Latvia	1	Rep.	unitary	Y	parl.	2,178.40	0.5674	0.8098
Liechtenstein	1	Princ.	unitary	N	parl.	37.1	0.4513	0.9027
Lithuania	1	Rep.	unitary	Y	½-pres.	3,515.90	0.289	0.5209
Luxembourg	1	Duchy	unitary	Y	parl.	514.8	0.5761	0.7613
Malta	1	Rep.	unitary	Y	parl.	411.3	0.0906	0.1755
Moldova	1	Rep.	unitary	N	parl.	3,619.90	0.3756	0.5813
Monaco	1	Princ.	unitary	N	parl.	30.5	0.6838	0.7838
Montenegro	1	Rep.	unitary	N	parl.	653.5	0.6894	0.7838
Netherlands	2	Mon.	unitary	Y	parl.	16,805.00	0.342	0.5296
Norway	1	Mon.	unitary	N	parl.	4,722.70	0.1076	0.2226
Poland	2	Rep.	unitary	Y	½-pres.	38,383.80	0.0642	0.1263
Portugal	1	Rep.	unitary	Y	½-pres.	10,799.30	0.0198	0.0396
Romania	2	Rep.	unitary	Y	½-pres.	21,790.50	0.194	0.3553
Russia	2	Rep.	federal	N	½-pres.	142,500.50	0.3464	0.5742
San Marino	1	Rep.	unitary	N	parl.	32.4	0.574	0.8544
Serbia	1	Rep.	unitary	N	½-pres.	7,243.00	0.3105	0.551
Slovakia	1	Rep.	unitary	Y	½-pres.	5,488.30	0.2538	0.4645
Slovenia	1	Rep.	unitary	Y	½-pres.	1,992.70	0.2942	0.5208
Spain	2	Mon.	regional	Y	parl.	47,370.50	0.4182	0.6852

Sweden	1	Mon.	unitary	Y	parl.	9,119.40	0.1976	0.3601
Switzerland	2	Rep.	confed.	N	presid.	7,996.00	0.5315	0.7543
Turkey	1	Rep.	unitary	N	parl.	80,694.50	0.4317	0.716
U. K.	2	Mon.	regional	Y	parl.	63,395.60	0.2892	0.424
Ukraine	1	Rep.	unitary	N	½-pres.	44,573.20	0.3644	0.6452

A = number of national legislature's Chambers; **B** = government form: Republic ("Rep."); Monarchy ("Mon."); Principality ("Princ."); **C** = state structure: unitary; federal; regional; confederal; **D** = EU membership: yes ("Y"); no ("N"); **E** = government system: parliamentary ("parl."); presidential ("presid."); semi-presidential ("½-presid.")²⁸; **F** = state population for July 2013 (in thousands), as estimated by the *CIA World Factbook 2013*²⁹;

FRAC_E = ethnically applied fragmentation index Taylor-Hudson; based on data regarding ethnic structure of states by the *CIA World Factbook 2013*; calculated as

$$FRAC = 1 - \sum_{i=1}^N \pi_i^2$$

where π_i is the proportion of people who belong to the ethnic group i within the total population, out of a total number of N different ethnic groups. FRAC's value span is [0-1], with the value 0 indicating a perfectly 100% homogenous population, while any increase in the number of groups translates into higher values of the index;

Q_E = ethnically applied polarization index of Montalvo and Reynal-Querol; based on data regarding ethnic structure of states by the *CIA World Factbook 2013*; calculated by using the same coding as above, as

$$Q = 1 - \sum_{i=1}^N \left(\frac{0.5 - \pi_i}{0.5} \right)^2 \pi_i$$

it measures the normalized distance of a particular distribution of groups (in this case, ethnic) from a perfectly bimodal distribution. Its values range from 0 (*i.e.* in the case of a homogeneous population) to 1 (*i.e.* in the case of a 50%-50% distribution of two groups)³⁰.

²⁸ Confronted with the widely acknowledged problems of defining semi-presidentialism, I chose to develop my above classification based on Maurice Duverger's definition: "A political regime is considered as semi-presidential if the constitution which established it combines three elements: (1) the president of the republic is elected by universal suffrage, (2) he possesses quite considerable powers; (3) he has opposite him, however, a prime minister and ministers who possess executive and governmental power and can stay in office only if the parliament does not show its opposition to them" (Maurice DUVERGER, "A New Political System Model: Semi-presidential Government", *European Journal of Political Research*, vol. 8, no. 2, 1980, p. 166).

²⁹ See <https://www.cia.gov/library/publications/the-world-factbook/>. Data for France and Sweden are taken from the "Population Statistics" website (<http://www.populstat.info>). Data for Denmark are estimates of the local Statistics Office (<http://www.statbank.dk>), while the figures for Italy are taken from the "Worldstatesmen" website (<http://www.worldstatesmen.org/Italy.htm>). All data have been retrieved Febr. 2014.

³⁰ For Spain, both FRAC and Q are measured linguistically. For Turkey, both values represent averages of the estimation ranges provided by the *World Factbook*.

Out of the seven variables taken into account in the above 2013 “radiography” of extended Europe, the bi- vs. uni-cameral dimension appears to be in: no noteworthy mathematical relation with form of government (*grosso modo* monarchical or republican), nor system of government (parliamentary, presidential, or semipresidential)³¹ or ethnic polarization³²; weak to moderate relation with the dichotomous variable EU membership³³, and ethnic diversity: contrary to the relatively widespread assertion that an option for a bicameral Legislative would be correlated with a higher ethnic diversity of the state population, both uni- and bicameral legislature states stretch over the entire fragmentation scale; out of the ten most ethnically fragmented countries in the extended European realm, only 3 (Bosnia, Belgium, and Switzerland) have bicameral Parliaments; similarly, the difference in terms of average country values is also insignificant (FRAC_E reaches an un-weighted average of 0.29 for the bicameral cluster vs. 0.32 for the unicameral one); finally, a restructuring of FRAC_E’s value range into quartiles (from Q1 lowest to Q4 highest) confirms the existence of a relationship, one however significantly weak:

Parliament \ FRAC _E quartile	Q1	Q2	Q3	Q4	Total	R ² (trend)
Bicameral	10	7	8	8	33	(-).263
Unicameral	3	5	4	4	16	(+).100
Total	13	12	12	12	49	

Still, Parliament structure is highly correlated with state structure and population size:

Parliament \ State structure	Federal / regional	Unitary	Total
Bicameral	9	7	16
Unicameral	0	33	33
Total	9	40	49

In terms of state structure, the strongly correlated bi- vs. uni- option manifested in Europe (where all federal or regional states have bicameral legislatures, while more than 4/5 of the unitary states’ Parliaments are unicameral) closely replicates the global pattern; my own exhaustive 2013

³¹ 66.6% of the parliamentary systems have unicameral legislatures, compared to 70.6% of the semipresidential ones, while the only two cases of presidentialism prevent any generalizing conclusion.

³² The increasingly arranged quartiles of ethnic polarization present the following occurrence of unicameralism: 76.9%; 50%; 66.6%; 66.6%.

³³ The ratio is visibly more balanced within the EU (55.6% unicameral vs. 44.4% bicameral) than outside of the Union (81.8% vs. 18.2% – a disproportion remaining high even when filtering countries with populations smaller than 750,000 – 71.4% vs. 28.6%).

survey of official national government and Parliament websites and a few dozen online country data directories administered by various international agencies and institutions has identified worldwide only five federal states that stand out as exceptions, having unicameral legislatures: Comoros, the dwarf states of Micronesia and Saint Kitts and Nevis, the United Arab Emirates, and Venezuela³⁴.

Conclusively, bicameralism seems indeed “identifiable with federal systems, where representation and geography entwine”³⁵, although, as it has been duly noticed, „roughly 2/3 of today’s parliaments are operating in unitary systems”³⁶.

As for population, the correlation seems equally spectacular. The strikingly opposed slopes of uni- and bi-cameral Parliaments’ distribution by country population quartiles thus converge towards confirming the mainstream conclusion of scholars, namely that the bigger the state population, the more the bicameral, respectively less the unicameral legislatures³⁷:

Parliament \ Population	Q1*	Q2	Q3	Q4	Total	R² (trend)
Bicameral	–	2	5	9	16	(+) .978
Unicameral	13	10	7	3	33	(-) .994
Total	13	12	12	12	49	

The European pattern closely respects the global one: out of the most populated twenty countries of the world, three quarters have bicameral Parliaments and only five (China, Bangladesh, Vietnam, Iran, and Turkey³⁸) unicameral ones. As to average populations, comparing the 10 most populated countries with unicameral legislatures to the corresponding bicameral, the latter category records 285.8 million, considerably higher than the average 197.4 million registered as an average for unicameral systems.

³⁴ Where the 1999-adopted Constitution of 1999 merged the former *Congreso* and *Senado* into a single 165-seats *Asamblea Nacional*. See full English text at <http://www.venezuelaemb.or.kr/english/ConstitutionoftheBolivarianingles.pdf> (last accessed March 2014).

³⁵ Samuel C. PATTERSON, Anthony MUGHAN (eds.), *Senates...* cit., p. 22.

³⁶ *Ibidem*, p. 10.

³⁷ Meg Russell for instance inventories, for 1996, a global average of 47 million population for bicameral states vs. a 24 million one in unicameral states, while out of 22 federal states surveyed, 18 had bicameral legislatures, as compared to only 40 of the 156 states (Meg RUSSELL, “What Are Second Chambers... cit.”, p. 444, n. 6).

³⁸ All cases subject to open debate in terms of democracy. As for the bicameral systems, it should be noted, almost all are federal states, which raises questions about the dominant independent variable – population or state structure.

SETTING THE RULES OF DEBATE: UNI- VS. (WHICH) BI-CAMERALISM?

As stated in the introduction, the accurate pre-definition of terms seems critical to any meaningful debate oriented not only towards mere comparisons, but also towards the identification of proper remedies to any undesirable *status quo*. One of the frequent shortcomings affecting the quality of the uni- vs. bicameral is fundamentally rooted in the inherent difficulty to define *the* bicameral model. Thus, whereas the meaning and definition of unicameralism are satisfactorily simple in both comprehension and explanatory power, *i.e.* one (and only one) legislative assembly, any equivalent enterprise regarding bicameralism remains flawed by an unbalanced uniqueness *vs.* similarity tension, failing to capture the extreme variety of today's bicameral legislatures throughout the world.

Addressing this crucial difficulty, Meg Russell for instance follows Lijphart's classic framework, which I shall address below, in that she also pinpoints (a) symmetry (*i.e.* "reasonably strong powers", as otherwise upper Chambers would have insufficient leverage over government) and (b) incongruence ("distinct composition") as requirements for an effective bicameralism; however, looking especially at the UK and Canada as living proofs that the first two are insufficient, she adds a third element represented by (c) an adequately perceived legitimacy, only to critically notice: "Recent theoretical expositions of the benefits of bicameralism are based on implicit assumptions that second Chambers have these three attributes"³⁹. This implicit assumption being often invalidated in reality, in the following I shall summarize a set of specific conceptual elements meant to operate relevant distinctions among various types of bicameralism, which I shall consequently apply to Romania's EU context, as a methodological prerequisite for the actual, consequently addressed, unicameralism *versus* bicameralism debate.

In what could be considered as the seminal scholarly work in the field, Arend Lijphart⁴⁰ has introduced the critical terms of "congruence" (referring basically to the political makeup) and "symmetry" (referring to the balance of powers) as instruments in analyzing bicameral Parliament's Chambers. In a more refined version⁴¹, attempting to measure parliamentary distribution of power, the same author develops a three-tier index of bicameralism, comprising the corresponding dimensions: (a) bicameral *vs.* unicameral (depending on the number of Chambers); (b) depending on the power balance between the

³⁹ Meg RUSSELL, "What Are Second Chambers... cit.", p. 456.

⁴⁰ Arend LIJPHART, *Patterns...* cit.

⁴¹ IDEM, *Democracies...* cit.

Chambers' symmetrical, moderately symmetrical, respectively (extremely) asymmetrical (depending on the (moderate) equality of constitutional powers and democratic legitimacy); (c) depending on the similarity of the Chambers' political makeup, congruent (Austria, the Czech Republic, Italy) *vs.* incongruent (*e.g.* Germany, Spain, France).

In the same spirit, although with a slightly different terminology, Giovanni Sartori⁴² has instrumented Chamber power and structure as variables in elaborating a typology of bicameral systems: depending on the first variable, bicameralism may be weak or asymmetric (in case of unequal power, *e.g.* the UK), strong or symmetric (when the Chambers' power is almost equal, *e.g.* Germany), or, at the extreme end, perfect (*i.e.* complete equality of the Chambers' powers, *e.g.* Italy); by the second variable, Sartori dissociates between undifferentiated systems (with both Chambers identical in nature, representing populations, or sharing the same electoral method, *e.g.* the Czech Republic, Romania, Italy), or, otherwise, differentiated systems (*e.g.* Austria, Belgium, the UK).

In relation to the first dimension, among various factors identified in the literature that foster incongruence, the most important four would be: (a) selection procedure of the Chambers' members: while the overwhelming majority of the world's second Chambers are directly elected, the selection method of upper Chamber members may differ significantly from one country to another: direct election (*e.g.* USA, Australia, Argentina); indirect election/appointment, by local/regional/state governments or legislative assemblies, or electoral colleges, who in turn elect/appoint the upper Chambers' members (*e.g.* Austria, Germany, Russia); appointment by the head of state (*e.g.* Bahrain, Jordan); mixed selection, with some of the members directly elected, others indirectly and/or appointed (current Afghanistan, Belgium, India); (b) tenure (length and simultaneousness), various countries introducing at least one difference, *e.g.* France (6 years for senator (1/3 of them renewed every 3 years) *vs.* 5 for deputies), the Czech Republic (6 (1/3 renewed every 2 years) *vs.* 4), Australia (6 (of which 1/2 renewed every 3 years); (c) eligibility minimum age requisite – usually higher for upper Chambers' members (*e.g.* 30 *vs.* 18 in Canada; 35 *vs.* 23 in France; 40 *vs.* 25 in Italy); (d) Chamber size – upper Chambers are usually smaller than corresponding lower ones.

The EU member states' bicameral legislatures seem equally diverse in terms of their (in-)congruence; on the basis of an empirical research operated in the '90s in Western Europe, Tsebelis and Rasch, who prefer the more refined instrument of "distance" to the classic "incongruence", concluded that,

"[while] existing procedures of upper and lower Chamber selection in all but two countries (Iceland and Norway) don't guarantee small ideological distances (or

⁴² Giovanni SARTORI, *Comparative Constitutional Engineering. An Inquiry into Structures, Incentives and Outcomes*, Macmillan, Basingstoke, 1994, pp. 183-189.

congruence), [...] however, examination of the post-World War II results indicates that distances between upper and lower houses have been small in other three countries: Belgium, Netherlands, and Italy”⁴³.

Eighteen years later, my own investigation of the political makeup of all the 12 EU member states’ bicameral legislatures, based on official Parliaments’ websites, shows not only a preservation of the incongruence in the cases identified by the aforementioned authors, but also that the two out of the three newest member states’ bicameral Parliaments (Poland and Romania) also have congruent Chambers, which means that at the time of writing 7 (out of 12) EU member states have bicameral incongruent Parliaments: Austria, the Czech Republic, France, Germany, Ireland, Spain, and the UK:

Table 4

Contemporary Variety of EU Bicameral National Legislatures by Different Criteria⁴⁴

Variable State (Chamber)	Upper Chamber selection method	Congruence	Resolution of inter-chamber disagreements	State: federal / regional
Austria (<i>Bundesrat</i>)	Indirect: appointed by state parliaments, proportionally to state population	no	navette (lower house decisive)	yes
Belgium (<i>Senaat</i> , <i>Senate</i>)	✓ 40/71 direct proportional ✓ 21 appointed by regional parliaments ✓ 10 co-opted by (other) senators ✓ hereditary for King’s children ^a	yes ^a	navette	yes
Czech Rep. (<i>Senát</i>)	Direct (1/3 elected every 2 years)	no	upper house decisive	no
France (<i>Senate</i>)	Indirect: appointed by electoral college (1/3 elected every 3 years)	no	navette (followed by joint committee or lower house decisive)	no
Germany (<i>Bundesrat</i>)	Indirect: appointed by state governments proportional to population	no		yes
Ireland (<i>Seanad</i>)	✓ 49/60 directly elected by universities from candidates of vocational panels; ✓ 11/60 appointed by prime minister;	no		no

⁴³ George TSEBELIS, Bjornerick RASCH, “Patterns of Bicameralism”, cit., pp. 365-390.

⁴⁴ *Ibidem*, pp. 369-370 (own adaptation, update and adding on the basis of state Constitutions).

Italy (<i>Senato</i>)	✓ 315 direct proportional; ✓ 3 lifetime senators appointed by the President;	yes	navette	yes
Netherlands (<i>Eerste Kamer</i>)	Indirect by 12 provincial councils	yes	navette (upper house decisive)	yes
Poland (<i>Senat</i>)	Direct majority province vote	yes	upper house decisive	no
Romania (<i>Senat</i>)	Direct, mixed electoral system	yes	thematic- defined distinction between first notified and decisional Chamber	no
Spain (<i>Senado</i>)	✓ 208/257 direct ✓ 49/257 appointed by regional legislatures	no	navette (followed by join committee)	yes
United Kingdom (<i>House of the Lords</i>)	Hereditary and appointed by the Queen ^b	no	navette (lower house decisive)	yes

^a The so-called “Butterfly Agreement” of 2011 has decided on abolishing, starting with 2014, the direct election of the Senate, which is to become a smaller-sized assembly of the regional Parliaments⁴⁵.

^b As of March 1, 2014: 668 life peers, 87 hereditary peers, and 26 bishops⁴⁶.

In terms of symmetry, the overwhelming rule indicates an asymmetry in favour of the (universally directly elected) lower Chamber⁴⁷, with the world’s bicameral Parliaments distributed along a continuum from extreme asymmetry (*e.g.* the UK, where the lower House of Commons may override the decisions of the Lords, whose attributes have in time become merely consultative, one might even say ceremonial) to a quasi-perfect symmetry (*e.g.* Italy, or Romania prior to the 2003 Constitution revision).

Aside from specific, explicit Constitutional and/or legal provisions regarding the Chambers’ powers in terms of concrete attributes and prerogatives, the general asymmetry in favour of lower Chambers⁴⁸ is primarily reflected in the

⁴⁵ See the official Dutch text of the agreement at http://www.dekamer.be/kvvcr/pdf_sect ions/home/NLdirupo.pdf (retrieved September 2013).

⁴⁶ See the official legislature website information at <http://www.parliament.uk/mps-lords-and-offices/lords/composition-of-the-lords/> (retrieved March 2013).

⁴⁷ Ioan MURARU, Mihai CONSTANTINESCU, *Drept parlamentar românesc*, Gramar, București, 1994, p. 44.

⁴⁸ The lower Chamber majority required to overrule an upper Chamber’s veto differing between countries. In Slovenia for instance, the upper National Council can veto within 7

mechanisms employed to reconcile inter-Chamber differences, empirical studies of European bicameralism having so far identified an upper Chamber as decisive in only two cases – the Netherlands and Poland⁴⁹. Tsebelis and Rasch⁵⁰ have identified various such mechanisms applied to solve a bill adoption dispute between Chambers: (a) establishing of a joint committee/mediation (e.g. Germany, Romania prior to 2003); (b) the *navette*/shuttle system, as a mechanism of sending a bill, as modified, from one Chamber to the other, each making an offer that the other either accepts integrally, or modifies it and subsequently makes a counter offer, a system which: (b1) can continue indefinitely (e.g. Belgium, Italy⁵¹); or (b2) end immediately (e.g. Netherlands, where the upper Chamber can either fully accept, or entirely reject the lower Chamber's proposal; continue for a finite number of rounds (e.g. France, Spain, UK, Austria); (c) non-reconciliation, when the power of each Chamber is regulated by the Constitution or the law depending on the nature of the issue debated (functional partitioning of the Chambers as in Romania post-2003, or South Africa).

Broadening the approach beyond the (a-)symmetry and (in-)congruence dimensions, Philip Norton⁵² fundamentally dissociates, as far as parliamentary Chambers are concerned, between *functions* (i.e. representation and reflection) and *capacity*, the latter comprising, together with formal powers (the correspondent of [a-]symmetry) and composition (the correspondent of [in-]congruence), also political will, a factor which is influenced by the local political customs and traditions developed in time, and which indeed seems largely neglected, despite its potentially crucial implications, inclusively on the very significance of congruence and symmetry⁵³.

In reference to Norton's distinction between a *de jure* vs. a *de facto* dichotomy between "constitutional designation" and "institutional design", Slovenia seems a peculiar case; its Slovenia's 2000-adopted Constitution⁵⁴ stipulates, along the 90-seats National Assembly (*Državni zbor*) as the (main) legislative state authority, the existence of a 40-seat National Council (*Državni*

days any bill adopted by the lower Chamber, which can however override the veto by a simple majority, whereas in Russia, the State Duma is required a 2/3 majority to reject the Federation Council's veto.

⁴⁹ George TSEBELIS, Bjornrick RASCH, "Patterns of Bicameralism", cit., p. 371.

⁵⁰ *Ibidem*.

⁵¹ Not coincidentally, the two EU member states with the highest post-War governmental instability.

⁵² Philip NORTON, "Adding Value?... cit.", pp. 7-8.

⁵³ See for instance the statement of the former Canadian senator Keith Davey: "Although we are not elected, we can block any and all legislation passed by the duly elected House of Commons. Not that we would ever use our powerful veto, given our unelected status. If we did, it would immediately be taken away from us, and so it should be" (Keith DAVEY, *The Rainmaker: A Passion for Politics*, Stoddart, Toronto, 1986, p. 306).

⁵⁴ Chapter IV, art. 80-95 and 96-101 (official bilingual text available at http://www.pf.uni-mb.si/datoteke/janja/Angleska%20PT/anglesko-slovenska_urs.pdf, last accessed 30th May, 2013).

svet), which, in the absence of a specific, *expressis verbis*, provision of the Constitution, is often interpreted by scholars as a second legislative Chamber. However, since article 96 of the Constitution defines the latter as “the representative body for social, economic, professional and local interests” and stipulates its organization by law, while art. 97 drastically limits its prerogatives, making it essentially an advisory, and not a legislating body⁵⁵, I have chosen to consider it a unicameral type⁵⁶.

Finally, integrating a multitude of criteria ranging from historical emergence to selection procedures of members, Dietrich Tränhardt identifies no less than nine currently existing versions of bicameralism: 1.) nobility second Chamber bicameralism, of medieval roots (*e.g.*, UK’s House of Lords); 2.) the Federal Senate, as a US trademark later imported in Latin America, Switzerland, Australia, or the Philippines; 3.) with a territorial-base indirectly elected second Chamber (*e.g.* France); 4.) the German model of the *Bundesrat*; 5.) the guild/corporate based model, nowadays (after the abolition of the German Senate) occurring only in Ireland; 6.) the appointed upper Chamber model, typical to former British colonies (*e.g.* Antigua and Barbuda, Bahamas, Barbados, Belize, Fiji, Grenada, Saint Lucia, Jamaica, or Trinidad Tobago); 7.) the second legitimate forum model (*e.g.* Japan, Australia); 8.) the identity solution (*e.g.* Italy); 9.) quasi-bicameralism (*e.g.* Nebraska’s state legislature)⁵⁷.

STRUCTURAL-PROCEDURAL ARGUMENTS OF THE DEBATE

Aside from what exactly should be compared, meaning unicameralism versus what type of bicameralism, the immediately arising question refers to what features of the two systems to compare, in the larger and more significant context of the all-encompassing question of “What makes a *good* institution?”.

⁵⁵ The National Council may for instance propose law drafts to be adopted by the National Assembly; convey to the National Assembly its opinion on certain matters; ask for National Assembly re-examination of an adopted law prior to promulgation; require the calling of a referendum, or inquiries on certain matters of public importance; respectively, when asked by the National Assembly, it must express its opinion on individual issues. For a more detailed analysis of the Slovenian case, see Alpár Zoltán SZÁSZ, “Sistemul politic din Slovenia: aspecte ale tranziției”, *Europolis*, vol. 1, no. 1, 2002, p. 123.

⁵⁶ Contrary to the IPU, who list Slovenia’s Parliament as bicameral.

⁵⁷ Dietrich TRÄNHARDT, „Mehr Demokratie oder mehr Gewaltenteilung?“, in Christiane FRANTZ, Klaus SCHUBERT (eds.), *Einführung in die Politikwissenschaft*, Lit, Hamburg, 2010, pp. 91-111.

Given the topic's relevance already a century and a half ago, the constitutional law literature devoted to the unicameralism *versus* bicameralism debate has in time witnessed innumerable and simultaneously extremely diverse accounts of both models' arguments and counterarguments, advantages and disadvantages, strengths and weaknesses, spanning from psychological conjectures, as for instance the assumed risk of conflict, or at least rivalry, which might be generated between two Chambers, to incredibly technical arguments related to the structure and procedures of parliamentary subcommittees; or from arguments of political philosophy nature, such as the theory of checks and balances in party-dominated political systems, to, derived from economics, attempts to establish institutional performance indicators and accordingly hierarchize the two models.

Based on works written in the field by both scholars and practitioners, the following synthesis structures the debate by each comparative analysis unit (*i.e.* the comparison criteria employed), while also distinguishing among arguments in the true meaning of the term (positive arguments in favour of one model), criticism of the other model (negative arguments), respectively counterarguments, or criticism rebuttal.

UNICAMERAL [1]	BICAMERAL [2]
Sovereignty	
Argument: One people, one representation.	Critique: Forcibly divides sovereignty, which is "unique, <i>indivisible</i> , inalienable and imprescriptible" ⁵⁸ Rebuttal: <ol style="list-style-type: none"> 1. The critique is normative and prescriptive, stating what <i>would</i> be good and what <i>should</i> be done, instead of what <i>is</i>: in a 21st century prominently marked by interdependence, intergovernmental and supranational structures, all states have partitioned sovereignty. 2. Even if so, it's not the sovereignty of the people, but its representation that would be (conventionally) divided⁵⁹.

⁵⁸ The French Constitution of September 4th, 1791, in accordance to the philosophical line initiated by Jean-Jacques Rousseau: "Sovereignty, for the same reason as makes it inalienable, is indivisible; for will either is, or is not, general" (*The Social Contract or Principles of Political Right*, 1762, II, ii). The idea marked a long time mainstream of uninterrupted continuity in political thought, and has been embraced as such even in the aftermath of World War Two by the patriarch of Realism in International Relations, Hans J. Morgenthau: "Sovereignty over the same territory cannot reside simultaneously in two different authorities, that is, sovereignty is indivisible", where sovereignty is "the supreme legal authority of the nation to give and enforce the law within a certain territory" (Hans J.

Comment:

The Rousseau-inspired, long time juridical and political mainstream view on sovereignty has in time lost both its descriptive and explanatory power. In the age of globalization, which fosters a dismantling of the national in favour a transnational rearticulating of territory-authority-rights subsets⁶⁰, and all the more within the European Union, (traditionally nation-) have been targets of a “triple attack”: 1.) *top-down*, by supranational integration; 2.) *bottom-up*, by seceding movements and local identities; 3.) *on the horizontal*, by migration. Consequently, sovereignty has ceased to be a dichotomous variable (*i.e.* sovereign or not?), becoming an ordinal one (*i.e.* sovereign to what extent?).

Representation**Philosophy:**

Singular, unified representation of one people.

Critique:

Fails to capture contemporary societies' diversity and properly represent it.

Rebuttal:

Inopportunity; *aside from cases of federal structure*, states cannot, or should not, invent a new Parliament Chamber for each of the innumerable cleavages occurring in contemporary society.

Argument:

In the context of today's increasingly complex and fragmented societies, [2]-ism represents the optimal format for adequately representing different sets of interests, which a [1] legislature might ignore, *e.g.* state, region, ethnicity, occupation. Philosophically, the idea of bicameralism is rooted in the principles of pluralism and consensus as crucial features of democracy.

Critique:

1. *Ibidem*;
2. Elitism: if upper Chambers are elected indirectly, let alone appointed, and, furthermore, they represent “local and elite interests and also control the power to dissolve the government”⁶¹, there arises a risk of them representing rather notables than the people, hence the subsequent cost of a democratic deficit⁶².

Rebuttal:

Truly democratic regimes are pluralistic and prevent the tyranny of the majority.

Critique:

3. In the context of the generalization of Constitutional Courts, the relevance of

MORGENTHAU, “The Problem of Sovereignty Reconsidered”, *Columbia Law Review*, vol. 48, no. 3, 1948, p. 316).

⁵⁹ Article 2(1) of Romania's 2003 Constitution for instance stipulates: “The national sovereignty shall reside with the Romanian people that shall exercise it by means of their representative bodies, resulting from free, periodical and fair elections, as well as by referendum” (official translation on the Parliament's website).

⁶⁰ See Saskia SASSEN, *Territory, Authority, Rights: From Medieval to Global*, Princeton University Press, Princeton, 2008.

⁶¹ James P. KETTERER, “From One Chamber to Two... cit.”, p. 136.

⁶² Ramona DUMINICĂ, Andreea DRĂGHICI, “A Few Considerations on the Structure of the Romanian Parliament within the European Context”, *AGORA International Journal of Juridical Sciences*, vol. 5, no. 2, 2010, pp. 73-79.

	<p>upper Chambers' representation systems is further questioned by the former's control replacement of the type of political censorship previously exerted by the upper Chambers⁶³.</p> <p>Rebuttal: The functional differentiation between Constitutional Courts, who exert a Constitutional control, and Parliaments, who legislate, is and will remain preserved.</p>
<p>Comment: Except for federal states, which apply a combination of the national and territorial representation principles⁶⁴, or, to a lesser degree, states structured in regions, the crucial factor of adequate representation and responsiveness to diverse societal issues and interests lies fundamentally not in the number of legislating bodies, but in the electoral system⁶⁵. Ethnic minorities' interests do not require a separate legislative Chamber; their representation in a unicameral legislature can be regulated by quotas or systems of proportional representation⁶⁶. A second Chamber seems of limited usefulness in unitary states, and all the less so in those with homogenous populations and weak local identities. With the necessary amendment that in the overwhelming majority of cases, second Chambers are powerless in revoking a government on their own (and vice-versa), the second critique against the bicameral model raises indeed a fundamental question of whom and why to legislatively represent. In terms of responsibility, the unicameral model favours the majority rule, while the bicameral one restrains it, favoring pluralism.</p>	

Civic participation	
<p>Argument: Transparent and simple to be understood and followed, unicameralism encourages broad public participation in legislative decisions.</p>	<p>Argument: Bicameralism offers more debate forums, more opportunities of deliberation, more hearings etc., where individual citizens and their representative organizations can participate freely⁶⁷.</p>
<p>Comment: Whether or not participation is perceived as a burden in bicameral systems, as some unicameralists argue, remains a debatable conjecture⁶⁸ in the absence of comprehensive</p>	

⁶³ C.P.A.R.P.C.R., *Raportul Comisiei Prezidențiale de Analiză a Regimului Politic și Constituțional din România: Pentru Consolidarea Statului de Drept*, C.H. Beck, București, 2009, p. 43.

⁶⁴ Ion DELEANU, *Instituții și proceduri constituționale – în dreptul român și în dreptul comparat*, C.H. Beck, București, 2006, p. 613.

⁶⁵ Tom TODD, "Unicameral or Bicameral State Legislatures: The Policy Debate", Minnesota House of Representatives, Research Department, St. Paul, MN, 1999, p. 2.

⁶⁶ For instance, art. 62(2) of Romania's Constitution guarantees a seat in the Chamber of Deputies for each of the officially recognized national minorities whose representative organization fails to surpass the standard electoral threshold; in Cyprus, even if the provision still can't be put into practice because of the protracted crisis over Northern Cyprus, the fundamental law's art. 62(1) guarantees a proportional 2/3-1/3 representation of the Greek and Turkish communities in the unicameral House of Representatives.

⁶⁷ Both arguments listed by Tom TODD, "Unicameral or Bicameral State Legislatures... cit.", p. 10.

⁶⁸ And so does, generically, the legislators' responsibility towards their electors, although some authors argue for instance that, even in its highly congruent version, it increases the likelihood of direct, consistent contact between legislators and electors, so that citizens' petitions are heard (*ibidem*, p. 2).

empirical studies comparing civic participation in uni- and bi-cameral systems, studies that would also need to take into account a multitude of interfering independent and intermediary variables, ranging from instance from the broader element of the country's dominant political culture to the technical issue of the hearing committees' work program.

Checks and balances

a) *Intra-parliamentary*

Critique:

Concentrates, instead of separating and balancing, power within the legislature; risk: Parliament becomes arrogant, acts autocratically and arbitrarily⁶⁹.

Rebuttal:

A unicameral legislature is already checked and balanced not only by the executive and judicial branches, in full compliance with Montesquieu's principle, but also controlled by the electorate, Constitutional courts, and various international and supranational agencies and institutions.

Counterargument:

The above are unreliable instruments of control; they are no substitute for the safeguard of restraining the legislature's power by dividing the legislature itself in a bicameral structure that fosters self-criticism and enhanced detection of error.

Rebuttal

1. The critique implicitly refers only to incongruent and symmetrical bicameral systems. In all other cases, the second Chamber remains redundant⁷⁰.
2. Globalization is an age of executive, bureaucratic, and judicial dominance, when "the problem with legislatures is infirmity, not prowess"⁷¹; concentration of power in a one-Chamber Parliament restores the proper balance among the three branches of Government.

Argument:

The need to divide power, even intra-parliamentary, so that the Chambers mutually deter/coerce themselves from becoming authoritarian, or from supporting such a regime. Thus, the utility of the second Chamber lies in its potential "veto player" role. Philosophically, bicameralism reflects a transposition at intra-parliamentary level of the checks and balances principle.

Critique:

1. Bicameral systems also concentrate power, but in the hands of a few influential members, like those who serve in important committees and those who appoint them.
2. Moreover, even if the second Chamber expresses a veto, the lower Chamber is decisive in almost all countries, so that the upper one seems once more redundant from the herein discussed criterion.

⁶⁹ In John Stuart Mill's words: "A majority in a single assembly, when it has assumed a permanent character [...] easily becomes despotic and overwhelming, if released from the necessity of considering whether its acts will be concurred in by another constituted authority" (*apud* Samuel C. PATTERSON, Anthony MUGHAN (eds.), *Senates...* cit., pp. 12-13).

⁷⁰ Especially in asymmetrical and congruent systems, when "the problem isn't in having two Houses, it's having one that is so in thrall to the whims of the minority" (E.D. KAIN, "Unicameralism Is Fine, but So Is Bicameralism without a Filibuster", *American Times*, May 19th, 2010, p. 3).

⁷¹ Tom TODD, "Unicameral or Bicameral State Legislatures... cit.", p. 6.

Comment:

The bicameralists' competitive advantage thesis that, since it deliberates (usually, but not exclusively) on what the first one has done⁷², the second Chamber may exert the function of administrative oversight as a subset of its reflective role⁷³, seems rather prescriptive and tacitly assumes inter-Chamber incongruence; in the more general conclusion of Meg Russell, "Recent theoretical expositions of the benefits of bicameralism are based on implicit assumptions that second Chambers [all] have these three attributes [*i.e.* symmetry, incongruence, and adequately perceived legitimacy]"⁷⁴. Equally true, unicameralists seem to ignore a multitude of other political system variables – inter-Chamber (in-)congruence, (un-)regulated transparency and accountability of parliamentary activity, party discipline etc.

a) Between the Legislative and the Executive**Argument:**

Reflects government policy more efficiently and coherently.

Critique:

Misbalanced executive-legislative power relation in favour of the government, even more so if party and executive leaderships coincide, as a parliamentary and governing majority will never willingly overthrow its own government.

Rebuttal:

Aside from the aforementioned external instruments and agencies controlling the legislative, in the other direction, the political identity of Parliament majority and government reflects *vox populi* and, furthermore, ensures the political system's stability and functionality.

Argument:

Provides enhanced oversight and control of the Executive; for reasons related to eligibility age, tenure, selection procedures, etc., members of second Chambers are more independent of the executive, and subsequently more effective in controlling it.

Critique:

Generally speaking, the partitioning of the Legislative reduces its authority and effectiveness in relation to the executive. Moreover, the above argument refers strictly to incongruent bicameral Parliaments. Even so, and even when not considering the risk of instability (or, alternatively, of institutional gridlock), the issue seems rather two-faced: a second Chamber may theoretically be more autonomous in relation to the executive, but the latter can rely on the other Chamber, always elected and thus of superior legitimacy, to counter the influence of the first.

Rebuttal:

One obstacle to government abuse is still better than none. And generally speaking, more legislators, committees and leaders mean inherently more capacity and expertise, and therefore greater authority and independence in relation to the executive.

Comment:

As it has been duly noticed, "members of governing parties in parliamentary lower Chambers must tread a difficult line – balancing the roles of checking the executive branch whilst supporting their party in power"⁷⁵. In the aggravating context of the globalization-led pressure exerted on legislatures in favour of executives⁷⁶, the paradox that "the very system intended to ensure Parliament's control over the executive has led to exactly the opposite flow of control"⁷⁷ suits the unicameral systems

⁷² Philip NORTON, "Adding Value?... cit.", p. 7.

⁷³ See Robert PAKENHAM, "Legislatures and Political Development", in Allan KORNBERG, Lloyd D. MUSOLF (eds.), *Legislatures in Developmental Perspective*, Duke University Press, Durham, 1970, pp. 521-582.

⁷⁴ Meg RUSSELL, "What Are Second Chambers... cit.", p. 456.

⁷⁵ *Ibidem*, p. 447. Not coincidentally, Aristotle, who prefaced the theory of the separation of powers, Locke, who explicated it, and Montesquieu, who developed it, all have written their works before the historical emergence of political parties.

⁷⁶ Saskia SASSEN, *Territory, Authority, Rights...* cit.

⁷⁷ David M. OLSON, *Democratic Legislative Institutions: A Comparative View*, M.E. Sharpe, Armonk, NY, 1994, p. 77.

par excellence, where the common sense critique advanced by bicameralists seems supported by empirical evidence worldwide. Equally true, the bicameralist argument refers, as in so many other cases, specifically, although not explicitly to incongruent and symmetrical bicameral Parliaments, in which the upper Chamber usually cannot revoke a government, but is able to at least exert some pressure on the lower Chamber, by raising awareness of and co-interesting the public opinion.

Accountability and transparency	
<p>Argument: One single legislative body solely and entirely responsible to the people. Compared to [2] systems, [1] are transparent, with fewer elected officials to monitor and hold to account, and with no scapegoat. Legislative procedures are easy (or at least easier by comparison) to understand and follow by electors, which further enhances the legislators' attentiveness and responsibility.</p>	<p>Critique: Undermines accountability of individual legislators by clouding their responsibility for decisions.</p> <p>Rebuttal: Bicameralism practices a dual accountability, analogous to the one within presidential systems, where electors vote separately for the head of the executive and for the legislative, both responsible for determining public policy and accountable to the electorate.</p> <p>Counterargument: The analogy implies distinguishable responsibility, applicable only to symmetric and directly elected Chambers, which are a rarity. In congruent bicameral systems of unitary systems, "the term 'redundancy' is far more appropriate"; "if control of the two Chambers is divided, then the second – in the words of Abbé Sieyès – is mischievous, because it challenges the accountability of the first"⁷⁸. "If two Chambers disagree and either fail to resolve their difference, or resolve them through doing deals, who then do the electors hold to account for the outcomes of public policy?"⁷⁹.</p> <p>Rebuttal: To diffuse Government authority is to diffuse responsibility. Most of today's legislatures are not unicameral, nor entirely elected by uninominal voting, let alone by first-past-the-post electoral systems, so that the responsibility of each legislator will always remain ambiguous. Eliminating the second house, though it may change tactics, won't end strategy, but will only make it adapt. MPs will continue to jockey to improve their bargaining position</p>

⁷⁸ Apud Rod HAGUE, Martin HARROP, *Comparative Government and Politics. An Introduction*, Palgrave Macmillan, New York, 2007, p. 306.

⁷⁹ Philip NORTON, "Adding Value?... cit.", pp. 11-12.

⁸⁰ Tom TODD, "Unicameral or Bicameral State Legislatures... cit.", p. 5.

		and to yield / divert responsibility. ⁸⁰
Transparency		
Argument: The simplicity and transparency of the unicameral model reduces the influence of professional representation of powerful interests and enhances the influence of less organized and moneyed citizens; additionally, it avoids inter-Chamber negotiations concealed behind the curtain ⁸¹		Critique: More complicated, less transparent, susceptible to favouring illegitimate interests. Rebuttal: Bicameral Parliaments may be less transparent and simple, but paid lobbyists need the support of a larger number of leaders, committee chairs and MPs.
Comment: Accountability and transparency are also conditioned by other variables of the specific political system, such as civic activism, directness and regularity of voter-legislator contact, party discipline, the degree of overlapping between the upper and the lower Chambers legislators' constituencies, national regulations of the lobbying activity etc. Furthermore, and hinting at the in part sterile character of the debate over accountability, the representative, and not imperative, nature of today's political systems means that the accountability of legislators materialises exclusively in them being not re-elected, a pressure further diminished in the case of indirectly or appointed legislators.		
Legislative stability		
Argument: The identity of parliamentary majority and executive branch in terms of political makeup reflects the people's will and guarantees stability.		Argument: 1. Especially incongruent and symmetrical bicameral systems produce more stable decisions: more autonomous in relation to both the executive and the electorate ⁸² , second Chambers may act as a brake to the first one, which is elected directly, for usually shorter terms, and subsequently more prone to radicalism ⁸³ ; thus, the upper house provides a "sober second thought" ⁸⁴ – a

⁸¹ *Ibidem*, p. 3.

⁸² As a resultant of different selection method (frequently indirect, implying less susceptibility to both constituency and executive pressures), higher minimum age eligibility requisite (meaning they will tend to have better formed views and be at a later stage of their careers), usually longer terms etc.

⁸³ Whereas second Chambers are described occasionally as modern "Elders' Councils", able to address topics in a less partisan manner (see Bogdan DIMA, "Parlament bicameral... cit.", p. 30.

⁸⁴ John MacDONALD, the first Canadian prime minister, *apud* Meg RUSSELL, "What Are Second Chambers... cit.", pp. 450, 451.

⁸⁵ *Ibidem*.

⁸⁶ Tom TODD, "Unicameral or Bicameral State Legislatures... cit.", p. 3.

	<p>“valuable asset in an otherwise party-dominated Parliament”⁸⁵.</p> <p>Critique: Aside from referring only to (highly) incongruent systems, the underlying principle that “passions of the lower chamber would be restrained by wiser, more conservative representatives of wealth and property in the Senate is a relic of history”⁸⁶.</p> <p>2. Incongruence additionally acts as a stability supplier, as it contributes to overcome the production of cyclic majorities⁸⁷.</p>
<p>Comment: Of a rather exceptional nature, the bicameralists’ argument applies only to incongruent and simultaneously and reasonably symmetrical legislatures, with differentiated tenures. In today’s EU for instance, out of twelve bicameral legislatures, at most half of them meet cumulatively the two criteria (Austria, the Czech Republic, Germany, Ireland, and Spain⁸⁸). Moreover, as with previous arguments, this one requires a contextualization by other characteristics of the specific political system, including the electoral system. The normative argument regarding cyclic majorities not only needs a much broader approach in terms of Condorcet’s paradox, but also questions almost directly alternation in power as a theoretically fundamental pillar of democracy.</p>	

Efficiency	
a) In terms of money and other resources	
<p>Argument: Smallest possible costs to government and taxpayers.</p> <p>Critique: 1. Subversive implicit assumption that unicameral automatically means less legislators⁸⁹, which is not necessarily the case; 2. A reduction of numbers inherently endangers the decision-making quality (see below).</p>	<p>Critique: Redundancy; duplication of consumed resources.</p> <p>Rebuttal: 1. The critique applies only to highly congruent systems, with no functional inter-Chamber partitioning; 2. The cost of a legislature represents a tiny fraction of the aggregate cost of state government – is this tiny possible discount worth the risk of compromising the quality of decision-making?⁹⁰.</p>
<p>Comment: The bicameralist criticism of the unicameralists’ widespread logical fallacy seems justified. Actually, for the top ten most populated unicameral and bicameral systems, the first category</p>	

⁸⁷ Andrés MALAMUD, Martín COSTANZO, “Subnational Bicameralism... cit.”.

⁸⁸ To which one might add France’s moderately asymmetrical and incongruent legislature (as classified by Arend LIJPHART, *Democracies...* cit., pp. 192 f.f.).

⁸⁹ An assumption sometimes even explicit (though usually referring contextually to congruent bicameral parliaments in unitary states), e.g. “smaller, less costly to operate” (Tom TODD, “Unicameral or Bicameral State Legislatures... cit.”, p. 11); “halving of electoral sinecures” (Ion DELEANU, *Instituții și proceduri constituționale...* cit., pp. 613-614; own italics added).

⁹⁰ Tom TODD, “Unicameral or Bicameral State Legislatures... cit.”, p. 11.

registers a higher average number of MPs (687.1 vs. 604.5). Equally true, citizens in unicameral systems seem better represented in terms of the combined parliamentary representation norm (*i.e.* 1 member of Parliament to how many country inhabitants), which is even more intriguing when considering that, at least in federal states, upper Chambers represent states/regions, which implies a further reduced representation of the people in the lower Chamber as compared to unicameral systems.

Table 5

Top 10 Most Populated Bicameral, Respectively Unicameral Systems by Number of Legislators, Country Population and Aggregate de facto Parliamentary Representation Norm

Bicameral Systems				Unicameral Systems			
Country	MPs	Popul. (mil.)	Repres. norm (k.)	Country	MPs	Popul. (mil.)	Repres. norm (k.)
India	790	1,220.8	1,545.3	China	2,987	1,349.6	451.8
U.S.	535	316.7	519.9	Bangladesh	350	163.6	467.6
Indonesia	692	251.2	362.9	Vietnam	500	92.5	184.9
Brazil	594	210.0	338.4	Iran	290	79.8	275.4
Pakistan	446	193.2	433.3	Turkey	550	80.7	146.7
Nigeria	469	174.5	372.0	South Korea	687	48.9	71.3
Russia	616	142.5	231.3	Tanzania	357	48.3	135.2
Japan	964	127.3	132.0	Ukraine	450	44.6	99.0
Mexico	628	116.2	185.0	Uganda	375	34.8	92.7
Philippines	311	105.7	339.9	Iraq	325	31.9	98.0
average	604.5	285.8	446.0	average	687.1	197.4	202.2

Based on data provided by Parliaments' websites and CIA World Factbook 2013.

However, aside from pure numbers of legislators, what additionally and more importantly counts is the aggregated cost related to the Parliament, be it uni- or bi-cameral, and not so much absolutely, but proportionally to other indicators such as GDP, average national income, etc.

b) In terms of functionality	
<p>Argument: Decisive, timely, effective. Quicker enactment of proposed legislation, no time-consuming inter-Chamber differences to reconcile, no <i>navettes</i>, no joint committees, no re-examination.</p> <p>Critique: Speed <i>per se</i>, at the expense of quality and/or responsibility? Speed and attention are</p>	<p>Critique: Likelihood, even if only for psychological reasons (<i>i.e.</i> inter-Chamber jealousy, friction, rivalry, thus making law adoption difficult, sometimes even impossible) of decisional gridlock (in congruent) or at least of a slowing down (in incongruent systems) of the law-making process, and, finally, to debatable solutions of divergence management⁹¹.</p>

⁹¹ Ion DELEANU, *Instituții și proceduri constituționale...* cit., p. 613.

inversely proportional.	Rebuttal: (Quasi-perfect) congruent and symmetrical bicameral systems are extremely rare. Moreover, divergences may actually reflect the (different) view(s) of the people.
Comment: Efficiency needs to be addressed two-dimensionally, not only objectively, in terms of possible standardised performance indicators, but also – and crucially – subjectively, in terms of the public opinion’s perception. Additionally, Philip Norton’s above-mentioned distinction between function, capacity, and political will of a parliamentary Chamber seems extremely useful, the third one being a critical factor of the likelihood of legislative delays or gridlocks.	

Decision-making quality	
Critique: Unicameralism doesn’t possess the “safety valve” against flawed legislation that a second Chamber provides.	Philosophy: “Two eyes are better than one” ⁹² .
Rebuttal: <ol style="list-style-type: none"> 1. Adopted laws are constitutionally controlled and subject to judicial contestation, while legislators can, and in the case of flawed legislation, should, reintroduce a new bill correcting the previous one. 2. Moreover, legislators of a unicameral system are able to proceed thoroughly and carefully, as they are relieved of the need to move legislation through a cumbersome process involving two houses. 3. If truly needed, “safety valves” can be engineered within the single Chamber, without generating a new Chamber for this sole purpose. 	Arguments: <ol style="list-style-type: none"> 1. When it comes to critical decision-making, “redundancy” has an „institutional value”⁹³, becoming a “virtue”⁹⁴. Providing a “second opinion”⁹⁵, an upper Chamber multiplies opportunities for debate and reflection and facilitates a more deliberative approach to legislation, thus preventing/hindering the passage of flawed legislation.
Counterarguments: <ol style="list-style-type: none"> 1. “Prevention is better than cure”; the above-mentioned are merely instruments of <i>a posteriori</i> control, when the harm has already been done. The constructive deterrence/coercion exerted by a second Chamber is probably more effective than the above-mentioned lack of pressure.	Counterargument: <ol style="list-style-type: none"> a.) Not rarely, bicameral legislatures are forced to take shortcuts and use fast track proceedings that condense committee and floor debate and eliminate opportunities for deliberation and reflection; b.) “Quite contrary to theory, experience shows that the presence of a second house encourages and enables legislative carelessness”⁹⁶, each Chamber relying on the other to correct mistakes or reject the flawed bill; <ol style="list-style-type: none"> 2. Able to postpone law adoption, the second Chamber offers a protection from the first Chamber’s possible legislating excess.⁹⁷

⁹² Giovanni SARTORI, *Comparative Constitutional Engineering...* cit., p. 251.

⁹³ Samuel C. PATTERSON, Anthony MUGHAN, *op. cit.*, p. 15.

⁹⁴ Tom TODD, “Unicameral or Bicameral State Legislatures... cit.”, p. 9.

⁹⁵ Kenneth C. WHEARE, *Legislatures*, Oxford University Press, London, 1967, p. 140.

⁹⁶ Tom TODD, “Unicameral or Bicameral State Legislatures... cit.”, p. 10.

⁹⁷ Bogdan DIMA, “Parlament bicameral... cit.”, p. 30.

	<p>Counterargument: Introducing a new problem does not solve the initial one (since there is no <i>a priori</i> reason to assume the second Chamber would differ in attitude, all the less in congruent systems).</p> <p>3. Even the congruent type of bicameralism might improve the efficiency of decision-making, as it enhances the informational process⁹⁸.</p>
<p>Comment: Aside from Sartori's obvious <i>argumentum ad naturam</i>, both argumentation lines omit the crucial factor of the legislators' necessary, or at least desirable, expertise; if the second Chamber's members are equally (un-)expert in the matter to be legally regulated, multiplying numbers is not the solution, since legislators will, at best, follow the recommendations of their advisors, or, at worst, either don't care, or adopt a populist solution. This punctual observation in turn opens a wholly new, generic, and consequential discussion about legislators' eligibility and expertise and about the complexity of the legislative activity in today's societies.</p>	

Customs and tradition:

This argument, already exemplified above, within the approach of historical factors on Parliament structure, does not develop along the uni- vs. bi-cameral debate line, but within each country, and reflects entirely different alignments. For the particular case of Romania, the elements of tradition shall be discussed in the next part of the study.

To conclude to the here completed inventory of nine main structural and procedural criteria instrumented in the comparative analysis of unicameralism and bicameralism, a first necessary remark emphasizes the above clarified necessity to distinguish, for each employed criterion, to which type of bicameralism the argument refers, each of them featuring a specific set of arguments and counterarguments. Thus, the incongruent and symmetric version of bicameralism seems the only one reasonably superior to the unicameral model. At the same time, any admissible comparison needs to expand from beyond an *in vitro* approach towards taking into account a multitude of interfering independent variables characteristic to a specific pair of political system and culture.

Essentially, the debate seems unsettled by five criteria: sovereignty – with the unicameralists' criticism of the bicameral model reasonably refuted; civic participation – in regard to which it doesn't seem clear which of the two models encourages/discourages more the involvement of citizens in the legislative process; the legislative stability, although, at least empirically and refrained to Europe, unicameralists appear to make a stronger case; the quality of the

⁹⁸ See James R. ROGERS ("An Informational Rationale for Congruent Bicameralism", *Journal of Theoretical Politics*, vol. 13, no. 2, 2001, pp. 123-151), who builds a game theory model with informational uncertainty and perfectly identical chambers in terms of their political makeup.

decision-making, with each of the two cases credibly refuted by the other debating side; respectively customs and tradition, an entirely subjective criterion to be instrumented within each country, and not in a trans-border format.

As for the remaining four indicators, bicameralists make a compelling argument in favour of their model in terms of representation within federal or regional states (whereas in unitary homogenous states without prominent local identities, a second Chamber seems redundant, as argued by the unicameralists), while the incongruent and symmetrical type of a two-Chamber Parliament seems also superior to the unicameral model in that it ensures a more efficient checks and balances mechanism, at least between the executive and the legislative branches. Oppositely, “the compelling argument for a unicameral legislature is the need to ensure accountability”⁹⁹, while efficiency seems at least theoretically riskier, or harder to be achieved within bicameral legislatures.

THE CASE OF CONTEMPORARY ROMANIA

The current, according to many opinions undesirable, *status quo* in terms of Parliament structure and especially functionality is a resultant of both historical factors and a post-1989 publicly perceived elite’s incapacity and/or lack of political will towards increasing the effectiveness of Romania’s institutional architecture in general, and of its Parliament in particular.

*Historical Background of Romania’s Parliament Structure*¹⁰⁰

Departing from the previous community assemblies of unicameral type that had extensively represented social categories on a census-vote-basis prior

⁹⁹ Philip NORTON, “Adding Value?... cit.”, p. 11.

¹⁰⁰ The following represents an extremely summarizing approach. For a broader historical overview, see Keith HITCHINS, *A Concise History of Romania*, Cambridge University Press, New York, 2014, pp. 112 f.f. For a narrower approach of the political system during the Communist Regime, see Dennis DELETANT, *Romania under Communist Rule* (2nd ed.), The Center for Romanian Studies; Civic Academy Foundation, Iași, Oxford, Portland, 1999. Ioan Stanomir provides an excellent summary of Romania’s Constitutional evolution in “The Temptation of the West: The Romanian Constitutional Tradition”, in Mihaela CZOBOR-LUPP, J. Stefan LUPP (eds.) *Moral, Legal and Political Values in Romanian Culture*, The Council for Research in Values and Philosophy, Washington, DC, 2002, pp. 75-97. For a comparison of post-Communist and interwar Romania especially in regard to electoral systems, see Cristian PREDA, *România postcomunistă și România interbelică*, Meridiane, București, 2002.

to the reign of Al.I. Cuza, the 1866 Constitution, largely inspired by the Belgian one of 1831¹⁰¹, attributed legislative power jointly to the monarch and to a bicameral “National Representation” (art. 31), comprising the Assembly of Deputies and the Senate (art. 32)¹⁰². The system displayed incongruence, as the deputies’ tenures lasted four years, while the senators were in part *de jure* members and in part elected by census suffrage for an eight-year mandate, half of them being renewed every four years.

Adopted in the aftermath of World War One, “Greater” Romania’s 1923 Constitution¹⁰³ preserved the bicameral, asymmetrical and incongruent structure of the Parliament, made up by: the Assembly of Deputies, comprising members elected by universal, equal, direct, mandatory and secret vote (art. 64) for a four-year term (art. 62), the age requisite being minimum 25 years (art. 66(c)); the Senate, which combined territorial, socio-occupational and religious representation criteria, comprising: (a) elected members, by the same procedure and for the same tenure as deputies, but with a minimum age required of 40 years): one senator for each county, indirectly elected by county and local councils (art. 69); one senator per county per occupational category, elected by the Chambers of Commerce, Industry, Labour, and Agriculture (art. 70); one senator for each state university, elected by and from within their professors (art. 71); (b) a variety of *de jure* members¹⁰⁴.

King Charles II’s 1938 Constitution preserved the bicameral legislature structure, its article 31 stipulating: “The legislative power is exerted by the King through the agency of the National Representation, which is divided in two assemblies: the Senate and the Assembly of Deputies”. The two Chambers differed significantly in terms of selection procedure, political composition, number of seats, tenure, and powers, making the envisaged parliament highly incongruent and asymmetrical: Deputies (required to be at least 18 years old and practice agriculture, manual labour, commerce, industry, or intellectual occupations) were elected on the basis of a uninominal system, by a secret, mandatory and freely expressed vote for a six-year term (art. 61); the half-sized Senate comprised three categories of members: (a) appointed by the King; (b) *de jure* members – the (adult) heir apparent; princes of the Royal Family; the Romanian Orthodox Patriarch and Metropolitans; the heads of officially-recognized

¹⁰¹ Ioan STANOMIR, “The Temptation of the West... cit.”, pp. 87-88.

¹⁰² See text of the 1866 Constitution at http://www.cdep.ro/pls/legis/legis_pck.http_act_text?idt=37755 (retrieved March 2014).

¹⁰³ Full Romanian text at http://www.cdep.ro/pls/legis/legis_pck.http_act_text?idt=1517 (retrieved March 2014).

¹⁰⁴ Among which: the heir apparent (starting with his 18th birthday); the state-recognized religious denominations; the president of the Romanian Academy; for prime ministers and ministers having served for at least four, respectively six years, former Armed Forces chiefs of staff etc. (art. 72-73).

religious denominations; (c) elected members, by the same procedure as deputies, but for a 9-year tenure, 1/3 of them renewed every 3 years (art. 63-64).

After World War II and Marshal Antonescu's dictatorship, marked by a suspension of any parliamentary activity, bicameralism was briefly reinstated in 1944, only to be replaced in 1946¹⁰⁵ by the emerging Communist power with a unicameral Great National Assembly, confirmed as such by the Constitutions of 1948 (art. 37), 1952 (art. 22), and 1965 (art. 42), in what represented a typically Communist marionette-legislature.

Bicameralism was re-established after the regime change of 1989, by the Provisional Council for National Unity's Law-Decree No. 92 of March 14, 1990, a *de facto* provisional Constitution whose article 3 referred to the Parliament as comprising the Assembly of Deputies and the Senate¹⁰⁶. The new state of fact was confirmed by the 1991 Constitution, whose article 58(2) – "Parliament consists of the Chamber of Deputies and the Senate"¹⁰⁷ – was preserved in article 61(2) of the 2003-revised version of the fundamental law¹⁰⁸.

The Current Problem-situation

The rationale underlying the 1991 option for bicameralism has been explained in the literature as both a return to pre-Communist tradition and a way of articulating a new constitutional identity by legitimizing the differentiation from the Communist unicameralism and, with disregard however for the Senate's traditional role of elite's and specialized representation, so that the country's transition legislature became and remained highly congruent. Partly acknowledging this problem, the 2003 Constitution revision, abolishing the inter-Chamber mediation procedure and establishing a law-defined, theme-related, albeit arbitrary, differentiation between a first notified, reflective and a second, decisional Chamber, has managed to alter the previous quasi-perfect egalitarianism only to a minor degree¹⁰⁹.

¹⁰⁵ Prime minister Petru Groza's Law Decree of June 17, 1946, abolished the Senate, a decision reconfirmed by the new Electoral Law of July 15, 1946.

¹⁰⁶ Romanian text at http://www.cdep.ro/pls/legis/legis_pck.http_act_text?id=7528 (retrieved March 2014).

¹⁰⁷ English text at http://www.cdep.ro/pls/dic/site.page?den=act1_2&par1=3#t3c1s1a58 (retrieved March 2014).

¹⁰⁸ For other information about Romania's parliamentary history, see, *inter alia*, Tudor DRĂGANU, *Drept constituțional și instituții politice. Tratat Elementar*, Lumina Lex, București, 2000, pp. 90-91; Sorin BOCANCEA (coord.), *Constituția României. Opinii esențiale pentru legea fundamentală*, Institutul European, Iași, 2012; Cynthia CURT, "Modele bicamerale comparate... cit.", p. 28; Bogdan DIMA, "Parlament bicameral...cit."; Claudia GILIA, „Reformarea sistemului constituțional... cit.", p. 164.

¹⁰⁹ Cynthia CURT, "Modele bicamerale comparate... cit.", p. 30.

The public debate and, consequently, the academic one, have been reignited in 2009, when President Traian Băsescu successfully initiated a referendum, simultaneously with the first round of the presidential elections, in which he was participating for a second term, regarding two issues: the establishing of a unicameral Parliament and a reduction of parliamentary seats to at most 300. The results marked a landslide victory of the president and his supporting party against essentially all other political parties and alliances: in a total turnout of 50.94%, no less than 77.78%, respectively 88.84% of the valid votes approved the unicameral, respectively size reduced Parliament Constitutional initiative¹¹⁰. However, despite the magnitude of popular support, the initiative registered no legally-required follow up in a Parliament where all parties openly boycotted the revision project.

Finally, after a spectacular, though negative-vote-based, victory in the parliamentary elections of 2012, the new parliamentary and governing majority of the Social-Liberal Union, which had already changed the electoral law towards establishing a now-in-session 588-seats parliament, initiated its own Constitution revision project which, however, doesn't consider any Parliament size reduction, nor a change of its bicameral structure, despite some, admittedly marginal, public voices insisting on it.

Apart from the decision-making and the public agenda as well, the academic community quasi-unanimously agrees on the status quo's undesirability, although opinions vary significantly as to what the best remedies to the acknowledged problem-situation would be. Thus, quite unique throughout Europe, the Romanian bicameralism type has been widely classified as egalitarian in both fundamental dimensions, *i.e.* congruence and symmetry, by both local and foreign scholars¹¹¹.

Various measurement instruments, advanced in time by various scholars and practitioners as well, do confirm this almost axiomatic opinion. Focusing her study on Latin America's bicameral Parliaments, but with worldwide applicability, Mariana Llanos for instance elaborated in 2002 two indexes of parliamentary incongruence, respectively symmetry, which I find useful for any inter-country comparison along the parliamentary dimension. Llanos' first index comprises ten dimensions representing institutional mechanisms and procedures that foster incongruence: *I.)* electoral system – *I.a)* districts and formula;

¹¹⁰ Meaning that even large chunks of the opposition candidates' voters approved Băsescu's initiative. For more data, see the validation decision of the Constitutional Court at <http://lege5.ro/Gratuit/geztcmbgrge/hotararea-nr-37-2009-referitoare-la-respectarea-procedurii-pentru-organizarea-si-desfasurarea-referendumului-national-din-data-de-22-noiembrie-2009-si-la-confirmarea-rezultatelor-acestuia> (retrieved March 2014).

¹¹¹ See, *inter alia*, Arend LIJPHART, *Modele ale democrației... cit.*, pp. 192-193; Cynthia CURT, "Modele bicamerale comparate... cit.", pp. 28-30; Ioan MURARU, Mihai CONSTANTINESCU, *Drept parlamentar... cit.*, p. 72; Tudor DRĂGANU, *Drept constituțional... cit.*

1.b) minorities' special representation; 1.c) appointments; 1.d) indirect elections; 2.) Chambers' size; 3.) requisites for being elected in the upper Chamber – 3.a.) age; 3.b) other requisites; 4.) tenure; 5.) Chamber's renewal – 5.a) synchronicity of renewal; 5.b) simultaneousness of election. The second index comprises six dimensions corresponding to institutional mechanisms and procedures that foster inter-Chamber symmetry: 1.) legislative attributes of the upper Chamber; 2.) origin of the bills; 3.) resolution of disagreements; 4.) executive control instruments – 4.a) investigation and interpellation; 4.b) one Chamber's (usually the upper one) participation in appointments; 4.c) bicameral division of tasks for impeachment¹¹².

Transposing Llanos' instruments, Romania's Parliament would register average scores of 6 in terms of incongruence, on a scale from 0 (extreme congruence) to 26 (extreme incongruence), respectively 16 in terms of symmetry, on a scale from 0 (extreme asymmetry) to 18 (extreme symmetry), figures that classify it as extremely symmetrical and highly congruent, in what thus represents a quantifiable confirmation of an overwhelming opinion already expressed in time by scholars.

A text analysis of the 2003 Constitution easily highlights this profoundly egalitarian format; stipulated by the fundamental law, the two Chambers display: an identical selection method (universal, equal, direct, secret and freely expressed vote) (art. 62(1)¹¹³; An identical mixed electoral system applied (art. 62(3) and subsidiary electoral law); a simultaneousness of their elections (art. 63(2), which further enhances the congruence derived by the first two provisions¹¹⁴; an identical (constituency) representation type of mandate (art. 69)¹¹⁵, translatable in equal legitimacy and authority; an identical and overlapping 4-year tenure (art. 63(1); an equal independence in both internal organization and budgeting (art. 64(1)-(5)); identical and simultaneous reunions in twice-a-year ordinary sessions (art. 66(1); an identical term-prolongation regulating framework (art. 63(2); an identical incompatibility set (art. 71); an

¹¹² Mariana LLANOS, "El bicameralismo en América Latina", paper presented at the Tercer Congreso Latinoamericanistas Europeos, Amsterdam, July 3-6, 2002; pp. 354-355, 359, 364 (<http://www.juridicas.unam.mx/publica/librev/rev/dconstla/cont/2003/pr/pr20.pdf>, last accessed 25 April 2014)

¹¹³ Unlike for instance the relatively similarly congruent case of Poland, where senators are elected by a majority vote on provincial basis, while members of the *Sejm* are elected for an equal 4-year term, but on the basis of a complex system of proportional representation.

¹¹⁴ Unlike the system of the Czech Republic, where deputies serve a 4-year term, while senators a 6-year one, with one third of them renewed every two years (see article 16(1)-(2) of the Constitution of the Czech Republic at <http://www.psp.cz/cgi-bin/eng/docs/laws/1993/1.html> (last accessed March 2014).

¹¹⁵ Unlike the otherwise similar case of the Italian Parliament, whose Chambers share the same electoral system, but, specifically, the senators are elected on a regional basis (articles 56-57 of the Italian Constitution, available at http://www.senato.it/docum enti/repository/istituzione/ costituzione_inglese.pdf, last accessed March 2014).

identical parliamentary immunity (art. 72); an identical right to legislative initiative, both Chambers being able to adopt laws, decisions, and motions, provided an (identical) absolute majority quorum (art. 67).

This combined high congruence and symmetry, not even mitigated by such minor differences as the ones regulated in the Czech, Italian or Polish types of bicameralism, has been criticized especially for perpetuating inefficient and redundant parallelisms¹¹⁶. Even a detailed research in Constitutional provisions relevant to the issue highlights a mere five noteworthy, but actually rather formal than substantial, differences between the two houses:

- a.) The minimum age eligibility requisite – 23 years for deputies *vs.* 33 for senators (Constitution art. 37(2));
- b.) The interim of the Presidency office, assigned, in order, to the President of the Senate, and then to the one of the Chamber of Deputies (Constitution art. 98(1)) – a difference related rather to people than Chambers;
- c.) The presence, confined to the Chamber of Deputies, of a representative for each officially recognized national minority whose organization doesn't overcome the standard electoral threshold (Constitution art. 62(2)) – the only *de jure* and *a priori* inter-Chamber difference in terms of political make-up, the others being usually generated by the “political migration” phenomenon;
- d.) The Chambers' sizes, calculated on the basis of an every-four-years changing law that regulates the representation norms of deputies and senators:

Table 6

**Romania's Post-1989 Number of Parliamentarians
by Chamber and Legislature¹¹⁷**

MPs Legislature	Deputies		Senators		Total
	No.	%	No.	%	
1990-1992	396	76.9	119	23.1	515
1992-1996	328	69.6	143	30.4	471
1996-2000	343	70.6	143	29.4	486
2000-2004	345	71.1	140	28.9	485
2004-2008	332	70.8	137	29.2	469
2008-2012	334	70.9	137	29.1	471
2012 – present	412	70.0	176	30.0	588

¹¹⁶ Ramona DUMINICĂ, Andreea DRĂGHICI, “A Few Considerations... cit.”, p. 76.

¹¹⁷ Parliament website figures (<http://www.parlament.ro>).

- e.) The specific prerogative of the Senate to validate the Superior Council of Magistracy members elected by general assemblies of magistrates (Constitution art. 133(2)).

Aside from these few minor differences, all deliberation and legislation topics subsumable to what might be considered “national interest” require joint sittings of the two Chambers, in which (22) cases – it has been justifiably argued – the legislative virtually functions as a single-Chamber Parliament¹¹⁸: debate of the proposed government programme and list, and expressing a vote of confidence (Constitution art. 103(3)); adoption of a motion of censure (no confidence vote) (art. 112(1)); debate of the programme, general policy statement, or bill upon which the government takes responsibility (art. 114(1)); re-examination, upon request of the President, of a law passed (114(4)); examination of reports issued by the Supreme Council of National Defence and of those of the Court of Audit (art. 65(2-g) and 140(2)); appointment of intelligence services’ directors (art. 65(2-h)); receiving the message of the President of Romania (art. 65(2-a)); approval of State and Social Security Budget (art. 65(2b)); swearing-in of the elected president (art. 82(2)); issuing of a declaration of war, or of total or partial mobilization (art. 62 (2c,d)); adoption of cease-fire decision (art. 65(2e)); appointment of the Ombudsman and presentation of his/her reports (art. 65 (2i) and 60); impeachment of the President for high treason (art. 96(1)); suspension from office of the President (or the interim one) (art. 95(1) and 99); approval of the National Strategy for Defence (art. 65(2f)); approval of the state of emergency or siege established by the President (art. 93(1)); adoption of the deputies’ and senators’ statutes, their emoluments and other rights (art. 65(2j)); fulfilment of any other prerogatives which require joint sittings by Constitution or Standing Orders (art. 65(2k)), such as adoption of other declarations, messages or bills of political nature, proclamation of referendum results, celebration of certain national holidays or commemorations etc.¹¹⁹

This set of objective shortcomings is doubled by the subjective component of public opinion and confidence in the legislature, one of constant extremely low values in comparison to both the average European values and the other national institutions or organizations surveyed. The following diachronic overview of Romanian public confidence in the parliament, measured over three waves of the European Values Survey highlights both the relative and absolute low confidence expressed since the regime change of 1989.

¹¹⁸ Tudor DRĂGANU, *Drept constituțional...* cit., p. 90.

¹¹⁹ The last three situations have been identified by Emil BOC, Cynthia CURT, *Instituții politice și proceduri constituționale în România*, Accent, Cluj-Napoca, 2006, p. 73.

Table 7

**Public Trust in Institutions over the Last 3 EVS Waves,
Romania and Europe Average**

Institution	1990	1999	2008
EVS wave			
Church RO	72.3	82.7	86.2
Church Europe	52.1	53.6	59.1
Armed Forces RO	82.2	82.6	76.2
Armed Forces Europe	46.1	57.3	63.3
Justice system RO	47.7	40.1	41.4
Justice System Europe	51.1	45.0	49.0
Press RO	27.8	38.5	43.5
Press Europe	39.2	38.6	37.0
Parliament RO	20.8	19.2	24.0
Parliament Europe	42.5	35.3	39.4
Civil service RO	30.6	27.3	30.7
Civil Service Europe	40.4	40.0	47.6
Education system RO	79.2	79.4	74.0
Education system Europe	63.0	70.5	67.9
Police RO	45.1	45.4	54.8
Police Europe	59.1	56.4	62.1

“RO” = Romania; “EU” = Europe sample average
(% of “a great deal” + “quite a lot confidence” within valid answers)¹²⁰

It is in this very context of both objective shortcomings of the legislature and its subjective negative perception by the public, that Romanian constitutionalist Ion Deleanu, launched a virulent critique of the current Romanian Parliament:

“In its current, artificially built form, featuring some novelty juridical fictions, such as the adoption of a law by its non-adoption, it offers an ‘exemplary’ paradox: formally, arithmetically, it is a ‘perfect’ bicameralism, as there are two – and thank God! – only two Chambers; functionally, it is a radically ‘imperfect’ bicameralism, as only of the Chambers issues the final ‘legislative verdict’. It is one of the most striking contradictions, one *pro domo* admitted with nonchalance by those who wanted to salvage their seats. But it is also one of the most unbearable situations, the two Chambers doing nothing else other than doubling the – anyway exorbitant, indecent, cynical – costs and the incompetence, mammothizing the extra casting”^{121,122}.

¹²⁰ EVS integrated database available and operational (March 2014) at <http://zacat.gesis.org/webview/index.jsp?object=http://zacat.gesis.org/obj/fCatalog/Catalog5>, last accessed 25 April 2014).

¹²¹ In the cinema meaning of the term. In the original Romanian expression: “mamutizând figurația”.

¹²² Ion DELEANU, *Instituții și proceduri constituționale...* cit., p. 188.

Even the application of the aforementioned criteria of a comparative unicameral *versus* bicameral analysis remains futile. Thus, the generic bicameral model's strongest two arguments do not apply to this country context as: firstly, Romania is a unitary state and, furthermore, ethno-linguistically and religiously highly homogenous, while local/regional identities seem reasonably weak; secondly, in terms of checks and balances, the remarkably high congruence of the current legislative structure, associated with the same supermajority within both houses, implies a minimal legislative pressure exerted on the executive. *A contrario*, the strongest unicameralist argument, *i.e.* accountability, combined with public perception, further speaks against the *status quo*, as do the every-four-year parliamentary elections, whose dominant feature seems to be a negative "against", type of vote. In terms of efficiency, the current system may be effective in that it isn't affected by gridlocks, but this is achieved on the expense of the legislature's independence in relation to the executive, whereas in economic terms, disrespecting the 2009 referendum results and divergent to the steady population decrease¹²³, the Parliament's aggregated size has been expanded in 2012 from 471 to 588 legislators.

As for the other generally employable comparative criteria, the public participation in and monitoring of the legislative activity remains severely low, while the legislature offers no discernible reason to believe it might try to ameliorate the situation; the quality of decision-making, regardless of any possible objective measuring, is rather completely irrelevant given the public perception of it; the sovereignty argument of unicameralists is exiled as caducous by article 148(2) of the Constitution. At the end of the day, the only noteworthy justification of today's unicameral configuration is formulated along the customs and tradition criterion and lies in the 72 years (1866-1938) of bicameralism of Romania's pre-1989 history.

CONCLUSIONS

Essentially controversial institutions, second Chambers and, subsequently, the option for a unicameral or a bicameral Parliament, will most likely remain the subject of intense debate in the academic fields of Constitutional Law and Political Science for mainly five reasons: firstly, some of the very defining characteristics of second Chambers, as for instance a particular political theory-rooted type of representation, one significantly different from the unicameralists' one people – one sovereignty – one representation philosophy; secondly, the

¹²³ According to the National Institute of Statistics, from 21.680.974 in 2002 to 19.042.936 in 2011.

spectacularly high variety, in terms of both structure and procedures, of today's roughly eighty bicameral legislatures worldwide and the virtual impossibility to conceptually unify them into a single model opposable to, by contrast, the parsimonious unicameral one; thirdly, in terms of structural and procedural criteria of comparative analysis, the consequential dilemma of the inseparable strengths and weaknesses of any existent or imagined legislature structure type – a dilemma roughly translatable as accountability plus efficiency (appraised by unicameralists) *versus* representation plus checks and balances (argued by bicameralists); fourthly and subsequently, the impossibility to mathematically model the classic debate's arguments and counterarguments into a standardized methodological instrument that would enable a "ranking" of the unicameral and multiple bicameral models; finally, the significant and largely acknowledged fact that legislature structure represents a dependent variable, a resultant of multiple strongly interrelated and highly country-specific factors of both objective and subjective nature, ranging from history-bound state structure to population size.

The last reason may thus explain, in terms of the uniqueness *vs.* similarity tension, why even a monitoring of the last two decades' roughly twenty switches from unicameral to bicameral structures and vice-versa, although capturing a relatively clear trend in favour of bicameralism, does not add explanatory power, nor comparative usefulness, since in the majority of those cases, scholars and practitioners have identified various other country-specific factors of the Parliament's subsequent institutional performance.

From the same empirical point of view, Romania, whose bicameralism stands out as an exception in its neighbourhood, respects essentially all of the correlations between legislature structure and other state variables monitored throughout Europe, while its unitary state structure does not represent an anomaly, since, although federal states highly correlate with bicameral parliaments, the majority of the two-Chamber legislatures worldwide are actually located in unitary states.

Leaving empirical aspects aside, a structural-functional approach to the country's current bicameral configuration however pinpoints it as an extremely peculiar case, unique at least among European bicameral systems, one that, employing any of the above-detailed conceptual and methodological instruments, is classifiable as severely ineffective. Thus, in terms of the symmetry-congruence-legitimacy analytical triad, apart from its extreme symmetry, insignificantly altered by the 2003 Constitution revision, it fosters a remarkably high congruence, which remains unaddressed as such, not even by some minor electoral or representational adjustments like the ones operated in the congruent bicameral systems of Italy, the Czech Republic, or Poland. Subsequently affected by numerous redundancies and parallelisms, completely disjointed from the fundamental rationale of the bicameral model, *i.e.* to represent

different interests, and additionally contextualized by a severely low public trust in the institution, Romania's current bicameral structure ultimately fails, even in appealing to most important two arguments developed in favour of the bicameral model: both its Chambers, quasi-identical in their political makeup, represent constituencies, while in terms of checks and balances, the governing majority controls both Chambers, which translates into a misbalancing of the Legislative-Executive power relation in favour of the latter. Thus, eventually, any other format, from the pure unicameral to the ideal incongruent and symmetrical bicameral one, seems preferable to the Romania's current parliamentary structure.

Essentially, the country's legislative problem lies not in a lack of solutions. Aside from various recommendations for generically increasing the Parliament's effectiveness and functionality, scholars and practitioners alike have advanced over the last two decades a multitude of proposals regarding the bicameral format, aimed mostly at diminishing the degree of inter-Chamber congruence, and ranging: from differentiating the selection method of the Chambers' members to introducing a Chamber-separated, administrative-territorial, respectively national representation; or from a mere reduction of parliamentary seats with the preservation of the bicameral structure, to entirely eliminating all the instances, classifiable as "of national interest", in which the two Chambers act as a *de facto* unicameral Parliament. The problem lies rather in the lack of political will.